

Centennial of the First  
Federal Court in Iowa

# ANNALS OF IOWA

ESTABLISHED 1863

Third Series

Vol. XXX, No. 4

APRIL, 1950

PUBLISHED QUARTERLY BY

IOWA STATE DEPARTMENT OF HISTORY  
AND ARCHIVES  
DES MOINES, IOWA

# Iowa State Department of History and Archives

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An institution of the State of Iowa, located at the seat of government, established as a department of the State in 1892, and administered by a Curator elected by a Board of Trustees composed of the Governor of the State, a Justice of the Iowa Supreme Court and the Superintendent of Public Instruction. It consists of the following:

The Iowa Historical and Genealogical Library

The Public Archives of the State of Iowa

The State Census Records of Iowa

The Portrait Gallery of Iowa, exhibiting oil portraits of the outstanding men and women who have contributed to Iowa culture and progress.

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In the interest of preserving Iowa history, the Department, as an official and permanent institution of the state, solicits the presentation, to its Manuscript Collection, of letters, diaries, family histories, and general manuscripts about Iowans and the area of which the state is a geographical part.

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## THE ANNALS OF IOWA

In the more than half a century THE ANNALS OF IOWA has been published, it has been a repository for, and made available to the people, generally, a vast amount of interesting and accurate data on the history of the State that otherwise would not have been accessible. The securing of material, and editing and supervising its publication, is a part of the immediate task of carrying on the work of the Department in harmony with its well established traditions.

The Editor welcomes for publication the contributions of the reminiscences, the writings, the biographies, observations and studies of those familiar with Iowa people and with important and significant events and movements in the state's history.

# ANNALS OF IOWA

A MAGAZINE OF HISTORY

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CLAUDE R. COOK, Curator  
DES MOINES

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CLAUDE R. COOK, Curator                      EMORY H. ENGLISH, Editor Associate

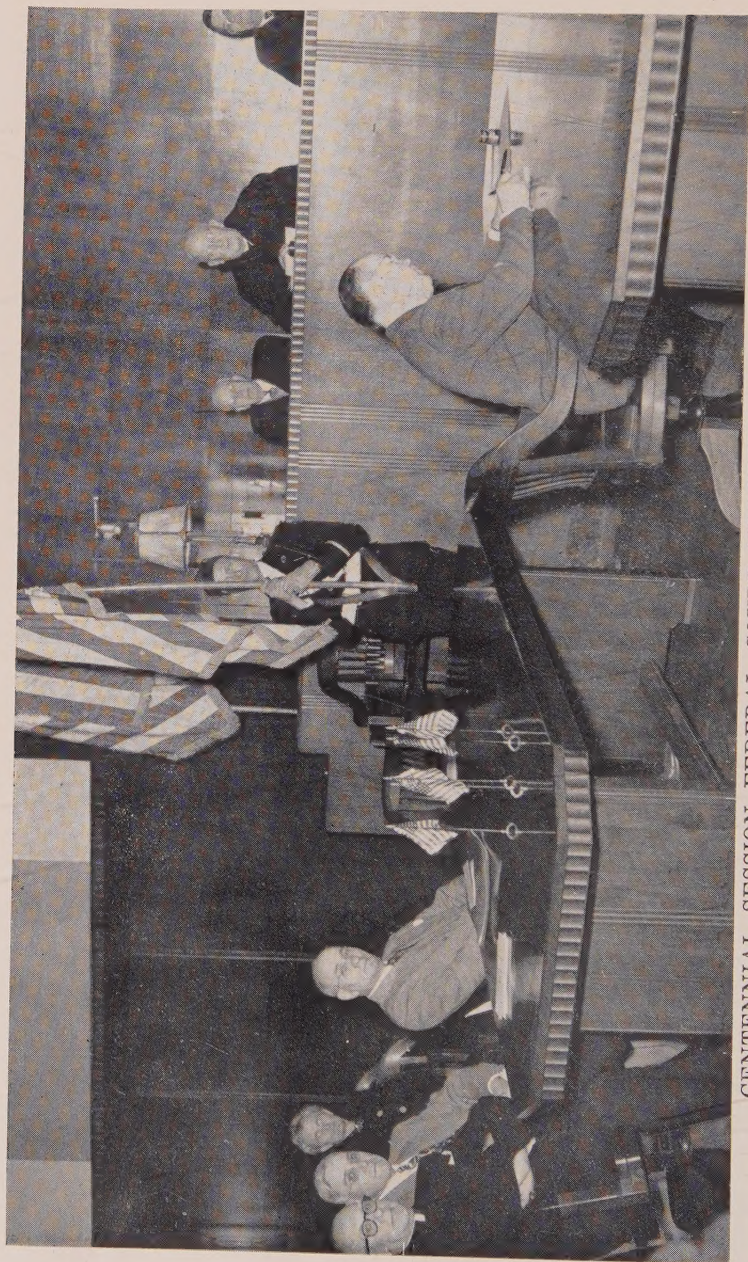
THE ANNALS OF IOWA is issued in January, April, July and October at Des Moines. Subscription Price \$1.00 Per Year; Three Years, \$2.50 When Paid in Advance; Single Copies, 25 cents.

Entered as second class matter July 8, 1920, at the post office at Des Moines, Iowa, under the Act of August 24, 1912.





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CENTENNIAL SESSION FEDERAL COURT NORTHERN IOWA DISTRICT  
At Dubuque, Iowa, January 7, 1950

Seated—From Left  
Rt. Rev. Msgr. M. M. Hoffmann  
Atty. Robert W. Clewell  
Mrs. Elsie May Johnson, Brandon  
U. S. Atty. Tobias E. Diamond

Seated on Court Bench  
Justice William Amery Smith, Iowa Supreme Court  
Judge Henry N. Graven, Northern District of Iowa  
Judge Carroll O. Switzer, Southern District of Iowa  
At Table: Carl V. Riley, Federal Court Reporter



# *Annals of Iowa*

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## CENTENNIAL OF FEDERAL COURT IN IOWA

Edited by EMORY H. ENGLISH

A dignified official session of the Northern Iowa U. S. District Court, in observance of the Centennial of the holding of the first Federal court in Iowa, was presided over at Dubuque, on Saturday, January 7, 1950, by U. S. District Judge Henry N. Graven, in the courtroom of the Federal building. The program commemorated the first session of the Federal court held at Dubuque 100 years ago, though there was dispute as to the exact place in the city where it was then held.

The Rt. Rev. Msgr. M. M. Hoffman, of Dyersville, an authority on pioneer Iowa, stated that the initial meeting of the court was in the old Globe building on Sixth and Main streets.

However, records of the time indicate that all public affairs were held at the old courthouse of Dubuque county, then the largest public building north of St. Louis, claimed Attorney Robert W. Clewell, member of the board of governors, of the Iowa State Bar association.

The meeting was graced by presence at the judicial bar with Judge Graven, of Justice William A. Smith of the Iowa supreme court, and U. S. District Judge Carroll O. Switzer, Southern District of Iowa. Both officials, along with U. S. District Attorney Tobias E. Dia-

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<sup>1</sup> The addresses herein are a condensation from the official transcript of the proceedings of the commemorative session of the U. S. District court of Northern Iowa, at Dubuque, January 7, 1950, taken by Official Federal Court Reporter Carl V. Riley, Dubuque, Iowa, and reported and edited for publication in THE ANNALS. The transcript in entirety is on file in the Manuscript division of the Iowa State Department of History and Archives. A sound recording was made of the addresses delivered at the session, and under order of court the discs were sealed in a container and placed in the vault of the Clerk of the court with proper noting in the records of such disposition.

mond, who also spoke, agreed upon the glorious history of the Federal court in Iowa. "I have never entered a courtroom, state or Federal, without believing that my client will receive fair and just treatment," Mr. Diamond said.

Two hundred persons were assembled at the commemorative court session, which was official in every respect. Most of these were judges, lawyers, officials and their staffs from all parts of the Northern district of Iowa.

An American Legion color guard stood at attention, the detail consisting of Edward B. Chase, George La-Prell, Eldo Block and W. E. Schaefer. Two Eagle scouts, Stanford Duffy and Alvin Rowe, gave the pledge to the flag.

#### A BRITON NATURALIZED

Preliminary proceedings consisted in naturalization of Mrs. Elsie May Johnson, of Brandon, Iowa, a former British subject, who took the oath of citizenship administered by Lee McNeely, court clerk. George E. Traut, vice commander of the Legion post, presented to her a miniature American flag. The new citizen was formally welcomed in an address by Henry Bregman, chairman of the Americanization committee, of Dubuque Post No. 6, American Legion, who said in part:

I appreciate perhaps more than anybody else in this courtroom your feelings today, Mrs. Johnson. I went through exactly the same experience that you are going through this morning. I was born in Europe. I had the privilege of coming to America as a small boy. This country has been very good to me. . . . I have lived in several of the European nations, where the words, "freedom, liberty and equality" were words only to be found in dictionaries. I did not know what freedom was. Nobody can possibly know what real freedom is until they come to the United States of America. Our country is built upon the principle of freedom, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, and that among these are life, liberty and the pursuit of happiness; and that congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or the press. In short, our country and its citizens



believe in the dignity of man, the right of the individual. And our forefathers gave their lives and incalculable sacrifices to preserve these privileges to us.

I congratulate you that you were able to pass the examination for American citizenship. You are now—and take it from me, because I know—a citizen of the finest country in all the world. We are the wealthiest country, and we are the strongest country—but at the same time we are the most humble country. No other country has done so much for humanity—if there is any disaster, whether it be in China, Japan, or any place else, we are the first on the job with aid and assistance. That is our record of the past, and we will continue to do that . . . My parting message is, read good books and the newspapers, and know what is going on in the country—and exercise your right of citizenship. It has been a wonderful privilege to me to be invited into this Federal court of the United States to say these words. I am thankful.

#### ATTORNEYS ADMITTED TO PRACTICE

Three members of the Iowa bar were admitted to practice as attorneys in Judge Graven's court upon recommendation of sponsors. They are Morris E. Stark of Bode, Isadore Meyer of Decorah, and Robert L. Oeth of Dubuque, and the oath of admission was administered by Clerk Lee McNeely. These in turn were endorsed by T. E. Diamond, U. S. attorney, Northern District of Iowa; Judge George B. Richter, Thirteenth Judicial district, and John C. Oberhausen, member of the bar of Dubuque county.

The court praised the Dubuque county bar association stating that "without its full cooperation and help the commemorative program would not have been possible, to whom I am greatly indebted and to whom I wish to express my appreciation." He then presented John G. Chalmers, judge of the district court for the state of Iowa in and for Dubuque county, and president of the association, who spoke briefly, saying:

One hundred years ago today in the city of Dubuque, Iowa, was held the first Federal court session in the Northern district of Iowa. One hundred years is a long time when measured by the span of life of the ordinary man. During those one hundred years this court has stood as a bulwark for the rights, justice and equities of those who came before it and sought its jurisdiction.

He then introduced Henry C. Kenline, a member of the Dubuque county bar, as chairman of the proceedings of the session, and of the local committee which planned the centennial observance. Then Mr. Kenline first presented by way of introduction Lee McNeely, clerk of the U. S. district court for Northern Iowa, who first took office in 1912, and served in that office thirty-eight years; also Frank A. O'Connor of Dubuque, former U. S. attorney for the Northern district of Iowa, who received his commission in 1914; William F. Riley, of Des Moines, president of the Iowa State Bar association, and Anthony F. Schrup, postmaster of the city of Dubuque. Next were presented descendants of earlier court officials, being David S. Wilson, Miss Marjorie Wilson, Kate K. VanDuzee and Horace S. Poole, all of Dubuque, and Carl W. Reed, of Des Moines, son of the late Henry T. Reed, former U. S. district judge, himself a former judge of the state courts of Iowa, a member of the Iowa senate, and presently a member of the Iowa state commerce commission.

#### HOFFMAN PICTURES IOWA IN 1850

The first speaker introduced by Mr. Kenline was the Rt. Rev. Msgr. M. M. Hoffman, of Dyersville, author and historian, a member of the faculty of Loras college, Dubuque, occupying the chair of philosophy and ethics, who spoke as follows:

This day is another milestone in the long, rich, and glorious history of Dubuque. The first white settlement in Iowa, Dubuque is the only part which existed under five different flags. When Joliet and Marquette came down the river, the fleur-de-lis of the French monarchy was run up over this part of the country. In 1763, this Louisiana country was transferred to the Spanish kingdom, and the flag of Spain was unfurled here until 1800. But there was a short period in 1780, for a few months, when during the War of Independence, an English expedition was sent down from Canada, and, by way of Prairie du Chien, came into what is now Dubuqueland, and ran up the Red Flag of Britain. From 1800 to 1803, the pennant of the French Republic under Napoleon Bonaparte was flown—but only momentarily at New Orleans after it became known that this was part of the French

Republic. And from 1803 until today, the Old Glory of the United States was run up to remain—and God hope for many years hence.

The hamlet that Julein Dubuque founded at the mouth of Catfish creek in 1788 was the first white settlement in Iowa, to be succeeded in 1833 by the present modern city of Dubuque.

So, I think it would be quite appropriate, as well as it is quite interesting this morning, to take a glance back through these last one hundred years to see what was this state of Iowa, the state in which the sovereign government of the United States decided to set up its Federal court. When Judge John J. Dyer ascended the steps of his judicial rostrum, Iowa had been a state but only three years, for it was in December, 1846 that it had been admitted as the twenty-ninth state of the Union. Its population was thin and scattered. The cities of Iowa were mainly along the Mississippi river—Dubuque, Davenport, Burlington and Keokuk. Council Bluffs, across the state, was a small gateway, growing more important, admitting the immigrants to the west. Sioux City was a little hamlet, just abornin'. There was not a city of any size within the state, except the little capitol of the state, at that time Iowa City on the Iowa river. Des Moines, the present capitol, was a military outpost on the shores of the Raccoon and Des Moines rivers.

Of all the younger states of the United States at that time, Iowa was the most ambitious. Thousands of immigrants each week were coming up the Mississippi river on steamboats to be landed at these cities, for as yet the steel ribbon of the railroads had not come as far as the Mississippi valley. The hectic days of the California gold rush were on and mobs of people were passing through this state on their way west. The great Mormon migration was still continuing, mostly through the southern part of the state; not a week passed but hundreds arrived at the Dubuque harbor, and left for Utah, crossing the state from here.

Iowa, so far as the Dubuque territory was concerned, depended mainly on lead, minerals and lumber, but agriculture, even at that time, was the great source of wealth of the state. This was long before corn had become king, and before the hog was the cartoonist's symbol of the wealth of Iowa. Wheat grew everywhere, on the prairies and along the streams. The squatter, the farmer, and the settler, was still staking out his claim in 1850. Transportation was entirely by wagon, by stagecoach, or by steamboat. That, in a few words, is the economic picture of Iowa in 1850.

#### EDUCATIONAL SYSTEM INAUGURATED

The cultural eminence to which Iowa has always laid claim had already begun in the foundation of the educational system of Iowa. Loras college in Dubuque was already eleven years old—



a college founded by a French bishop, Matthias Loras, and a Welsh general, George Wallace Jones. Iowa Wesleyan university, at Mount Pleasant, was founded in 1844. The State University of Iowa was then being organized—and other academies and colleges were being formed; and a myriad of little schoolhouses were being erected by 1850.

In that year the governor of Iowa was Ansel Briggs, from the county south of us, Jackson county. He lies buried today in the cemetery at Andrew in Jackson county—and in this part of the year he was still signing bills in that great, historic old building at Iowa City called the Old Capitol. But before the year 1850 was ended, a thirty-eight year old resident of Dubuque, Stephen P. Hempstead, took over the governorship, and we have a street named after Governor Hempstead in the northern part of the city. Incidentally, I believe Governor Hempstead was the only Dubuquer ever to become governor of Iowa, or any state of the Union.

In that same year, in 1850, Iowa was represented in the halls of the United States senate by two distinguished gentlemen whose lives were entwined with Dubuque very intimately. They were Augustus Caesar Dodge and George Wallace Jones. Dodge street and Jones street in Dubuque are named after them. To the south of us and to the west slightly is Jones county, named after George Wallace Jones; and Linn county, of which Cedar Rapids is the county seat, was named after his uncle, Senator Linn of Missouri, who was sitting in the halls of congress at the time Senator Jones was sitting there from Iowa. Fort Dodge, at that time known as Fort Clarke, a little village, had its name changed a few years later to honor the Dodges. General Henry Dodge and General Augustus Caesar Dodge, father and son, served simultaneously in the U. S. senate representing two different states, the only instance we have of that in the entire history of the United States. And of the city's name being changed to honor the Dodge family, Cyrenus Cole of Cedar Rapids, former congressman, wrote, "No city was ever named more honorably in the annals of America than Fort Dodge, which carries the memory of General Henry Dodge of Wisconsin and General Augustus Dodge of Iowa." Both of these gentlemen had served together in the Blackhawk war. Both had been generals of the militia. And General Jones, when he was delegate from Wisconsin to the congress of the United States, was instrumental in putting through a bill which created the territory of Iowa, in 1838, and later when Augustus Caesar Dodge was delegate from the Iowa Territory to the congress of the United States, he was the one chiefly instrumental in securing passage of the bill creating Iowa as a state. Both of those gentlemen were close friends of Judge Dyer during the years he presided as Federal District Judge in Dubuque.

## DUBUQUE AN IOWA GATEWAY

Dubuque was then a bustling little town of four thousand people. The census of 1850 gives the population of Dubuque county as a little less than eleven thousand. Dubuque was the gateway and port of entry for goods and people from the east for all of northeastern Iowa. Across the river east, as well as a few miles to the south, was another city and is another city yet today, Galena, which was then the rival of Dubuque. And not a day passed but what from five to fifteen steamboats came from the south to the north and entered the harbors of those two cities. The rivalry at this time in 1850, was quite fierce. I noticed the other day, in the *Miner's Express* of 1849, a few months before Judge Dyer opened the Federal court, referring to this rivalry in the hope of Dubuque being the Queen City port of the northwest, this was said in an editorial:

Already the largest town west of the Mississippi and north of St. Louis situated precisely at the point latitude at which the railroads extending west from the towns upon the lakes must strike the river; surrounded by a country on all sides, almost illimitable in extent and inexhaustible in its agricultural and mineral resources—it requires no gift of prophecy to foresee that Dubuque is destined to become and to remain the great commercial city of the northwest.

What a prophecy! I leave it to you, to say how well it has been fulfilled. At that time the log cabins and the wooden huts of the city of Dubuque had been gradually transformed into the brick and stone buildings and the elegant mansions that reached over the hilltops here. In 1849, just before Judge Dyer opened the Federal court, he built the beautiful mansion with high colonnade pillars at the entrance of Main and 13th streets. At that time, I should mention too, that the great newspaper of Iowa, the leading one, was the *Dubuque Miner's Express*, and its editor was a famous name prior to and during the Civil war, Dennis A. Mahoney, and it was read all over the state.

## LAWYERS AND LITIGATION

In conclusion, I would like to say a few words about the Federal court itself, which opened one hundred years ago today. On that day it opened in a building down on Sixth and Main streets called the Globe building, often referred to as the Globe hall. In this building was housed the Globe theatre and council rooms of the city of Dubuque, as well as the United States postoffice of that day.

The first lawyer to arrive in Dubuque was a gentleman by the name of William Corriell, who came here in 1835. On May 26, 1836, the *Dubuque Visitor* said in the paper of that day, "A good omen. Dubuque so far has been found fit to be occupied by only one

lawyer." Remember, the *Dubuque Visitor* was the first newspaper to be published north of St. Louis and west of the Mississippi. So that statement is quite significant—but we may say, that the caliber of the attorneys appearing in Federal court in Judge Dyer's day was as high as it is today. Among them, we have the names of such men as Governor Hempstead who practiced in that court. Governor Hempstead came to Dubuque in 1837. There was here a famous lawyer by the name of Timothy Davis, after whom Davis avenue in Dubuque is named, and who later on became a United States congressman from northern Iowa. He arrived in 1839—and practiced in Federal court in its first years. And there was Justice Thomas S. Wilson and his brother, David, whose descendants we are honored to have with us today. Thomas S. Wilson arrived here in 1836. He had been a member of the Territorial Supreme Court of Iowa, and later on, after his retirement, he became a district judge of the Iowa court. And there was an attorney by the name of Platt Smith, who had no collegiate training whatever, but who developed later on as one of the great Dubuque attorneys, and was connected with many of the famous cases of litigation at that time. He had a claim to culture. He was the founder of the Dubuque library association. There was Ben Samuels, a handsome, tall, eloquent orator, who was a product of the finished schools of the east. And we do not want to forget, Frederick E. Bissell, who also practiced in that court, and who later on toward the 60's became attorney general of Iowa. The firm of Nightingale and Wilson was the one at that time which included David S. Wilson, who later succeeded his brother as a district court Judge in Dubuque. And it is interesting to note that Judge Dyer, after he arrived in Dubuque, helped form a law school here, called the Dubuque Law School, which flourished until the time of his death some five or six years later. He was the dean of the law school, and on the faculty was Judge Dyer, Judge Thomas S. Wilson and the Rev. Joshua Phelps, a Congregationalist divine, who taught English and the classics in that school.

The type of litigation before the courts of that day had to do with cases growing out of lead mines, and admiralty cases arising out of the busy traffic on the Mississippi river, steamboat collisions and other claims. And when the railroads came, there was litigation in connection with right-of-way and accidents. They were things that you do not hear very much about today. There was a great deal of litigation about the defaulting bond issues of the various cities and towns, which, in their early liberality, encouraged the railroads to come, but later failed to pay off the mortgages. Those types of matters have just about disappeared from the docket of our Federal court of today.



There, in a few words, we have the picture of Iowa of 1850. It was a young state, full of ambition, resolute, full of confidence in the future. It was the miniature of the United States republic. Thousands of European immigrants and settlers from the east were crossing the Mississippi every week to settle here in Iowa. The breath of freedom was in their nostrils, and the hope of liberty which they knew would be at home on the prairies and hills of Iowa beat strongly in their hearts. It is the Iowa of their day of 1850 that we inherited, and that in this courtroom this morning, under the aegis of justice and liberty, we stand as it were receiving the kindly benediction of the tradition of the past in the presence of Judge Graven, the able successor to a long line of noble jurists. And looking back one hundred years ago, seeing what a haven of opportunity Iowa was for our fathers and our forefathers and praying that God will keep alive that hope and opportunity in the future for our children and our children's children, we can repeat this morning with patriotic fervor, the lines of the poet:

"Great God, we thank Thee for this home,  
This beauteous birthland of the free,  
Where strangers from afar have come  
To breath the air of liberty.  
Long may her flowers, untrampled spring,  
Her harvests wave, her cities rise,  
And yet till time shall fold her wing  
Remain earth's loveliest paradise."

### THE ADMINISTRATION OF JUSTICE

The privileges and blessings of citizenship in America were emphasized also in the address of U. S. District Attorney Tobias E. Diamond next introduced, who said in part:

One hundred years sweeps into it practically Iowa's entire existence as a state. 1850 was a notable year in American history. That year saw two presidents of the United States. History records that General Taylor, president of the United States, died, and he was succeeded by the then vice-president, Millard Fillmore. That was the year in which the great Omnibus bill was passed in congress, sponsored and fathered by that great pacificator, Henry Clay. That was the year in which the Fugitive Slave act was passed, a piece of legislation that had much to do with the conflict between the states a few years later. Yes, that was the year in which the dominant political issue before the American people was the slavery question. It was in that year when there was a great discussion as to the admission of the state of California as a free state or as a slave state. And slavery was the principal, if not the only, political issue discussed

with any degree of earnestness during all of those years, and especially during the year of 1850, when the famous compromise of 1850, as it is known in our history books, was again sponsored and fathered by that great statesman, Henry Clay. Iowa had been admitted to the Union a few years before that, and I suppose that congress being aware that our winters were severe also included Florida to give us a little better weather, admitting Florida and Iowa at the same time.

It was not so long after that the Federal Judicial District of Iowa was formed—I believe in the year 1848. There were certain divorce proceedings instituted in congress by which a part of that district was divorced from the rest, and while the law as to retaining maiden names by divorcees may not have been in force, yet they did give this district a new name and called it the Northern District of Iowa—and the remaining part of the old District was called the Southern District of Iowa. I believe it was in 1882 when those proceedings took place in congress. My parents must have had prophetic souls, because they must have realized that if I ever came into existence I would love the state of Iowa, and particularly the Northern District of Iowa, because I arrived here just five years later, in 1887. And I am almost constrained to say that I must have had a little impression in my mind that some day I would like to take part in the administration of justice in that district.

When I heard the young man speak this morning to our newly-made citizen of the United States, he brought me back to some of the earlier years when I too went through that same process. You folks who were born, native-born Americans, I sometimes feel sorry for you, because you are not in a position to appreciate fully the wonderful blessings of being an American citizen, as we do who were naturalized into citizenship in this country.

I believe that the United States of America is the greatest country on God's green footstool—and Iowa, the most typical state in this entire sisterhood of states. Just look at it! She isn't too far north. And yet she isn't too far south. She isn't too far east. Nor is she too far west. She is not the largest, and yet not the smallest. She is not the richest, nor the poorest. She is not the most thickly populated, and yet she is not the most sparsely populated. I understand that the flora of the North American continent can be divided into two main classes: those of the eastern half of this continent and the flora of the western half of this continent. They tell me that they both meet in Iowa.

I don't believe that there is a state that has as many things to commend it as our beloved state of Iowa. And this judicial district, with all due respect to our distinguished guest who presides over the judicial destinies of the Southern District of Iowa, I

am inclined to think that the best land and the best counties in the state of Iowa are the fifty-two counties in our own Northern Judicial District of Iowa. And going a little outside of the United States may I mention, parenthetically, that the great poem, "In Memoriam," written by Lord Alfred Tennyson, was written in that same great year of 1850.

#### OUR SUPERIOR JUDICIAL SYSTEM

There is always one thing which I think of with a great degree of fondness and that is the wonderful judicial systems we have here in the United States: the state judicial system and the Federal judicial system, with a sort of an elliptic thread of justice running through both systems in their respective jurisdictions. While I have practiced law for something like forty-six years, yet I have never entered a court, either state or Federal, but I have always felt that my client will get just what he is entitled to, no more, no less, and although I have sometimes gone out of the court room thinking that the judge made a terrible mistake, upon more sober reflection, upon more mature deliberation, I am glad to say that in every instance I have finally been led to see that justice was administered just as it should have been.

And may I say at this time a word to attorneys? Perhaps more to those younger men who were just admitted; your zeal for your clients may lead you to believe that your client's cause, or your side is impregnable, and is the only side that should win, and when you are defeated in court, I want to take you just a moment to the seat of admonition and tell you that when you step into an American court, and you are given the privilege of helping to select the jury, if it is a jury case, and as the presiding genius of that legal proceedings sits the judge. When you get through with that case, I admonish you to take home with you the thought that in no other country on God's green footstool will you find that proceeding performed with such meticulous care and such an earnest desire to administer justice than you have seen in the case you may have just tried. I have never yet stepped into a court where I felt at the outset that I wouldn't get a square deal. I know I am a member of a minority race that has been much persecuted—some of it deserved no doubt; and some of it undeserved—and yet I have never in a single case felt that it would cut the slightest figure in the destinies of my case that I was about to and later did present in that court.

#### PLACE OF HOLDING FIRST COURT

Representing the local judicial district of the state, the next speaker presented was Robert W. Clewell, attorney of Dubuque, and member of the board of gov-



ernors of the Iowa State Bar association, who addressed the court in part as follows:

In March 1845, congress also passed an act creating the Judicial District of Iowa. Provision was made for a judge of the district court of the United States for the District of Iowa, and for holding court at the seat of government, which was then Iowa City, having been moved there from Burlington in 1841.

In 1846 John J. Dyer of Dubuque, a native of Virginia, was appointed judge of the United States district court for the District of Iowa and he acted as such until his death in 1856. In 1849, the business of the court was such as to bring about a provision for holding the court in three places instead of only one. The Judicial District of Iowa was divided into three divisions, the Northern Division to meet in Dubuque on the first Monday in January, commencing January 7, 1850, the Middle Division to meet in Iowa City, in October, and the Southern Division at Burlington in June.

Accordingly on the first Monday in January 1850, which was January 7th, Judge Dyer opened the first term in Dubuque of the District Court of the United States for the Northern Division of the District of Iowa. Volume A of the United States District Court records in the office of Clerk Lee McNeely contains the record of the proceedings of that first term in Dubuque, as well as of all of the succeeding terms. . .

An exhaustive search has been made to determine the place in Dubuque where the Federal court met in 1850. The Dubuque newspaper at that time was the *Miners Express*, a weekly publication. The issue of January 9, 1850, refers to the court session but simply states that "United States District Court commenced its session in this city on Monday last. The following are the names of the jurymen in attendance" (naming 24 jurors).

The same paper for the first week in January, 1851, did not even mention the court being here. It is a significant fact that the newspapers in those days made no attempt to dramatize the news. There were no alluring headlines, only a simple statement of fact without any embellishment or glamour whatsoever. Undoubtedly this was because it was necessary to set the type by hand.

There are other circumstances in the records and newspaper files, however, from which it seems quite certain that the Federal court met in what was then known as the new courthouse which was completed in 1843. It occupied the site of the present courthouse at 7th street and Central avenue but apparently faced 7th street instead of Central avenue, as the present courthouse does, because references are found to the building of a jail behind or in the rear of the courthouse and on 8th street.

At this point certain of the records in Volume A before alluded to, become significant because of their connection with subsequent events, which tied together, seem to lead to the conclusion that the Federal court met in the county courthouse. The record of the Federal court session held in 1852 shows that on January 5th of that year in the case of Chouteau vs. Molony, the following order was entered:

On motion of defendant's attorneys, ordered that the depositions in this case be filed and published.

On January 9, 1852, the following entry appears in the record in the same case of Chouteau vs. Molony:

This day came the plaintiff by his attorney, P. R. Cornick, Esq. and on his motion and with defendant's consent, it is ordered that leave be granted to plaintiff to withdraw his declaration and substitute therefore a petition under the practice as regulated by the code of Iowa. It is further, upon consent of the parties, ordered that plaintiff have leave to withdraw an original paper (Dubuque's petition to Baron Carondelet) and substitute in its place a copy thereof. Thereupon came the defendant by Wilson and Smith, his attorneys, and filed his demurrer to plaintiff's petition. When the case came on to be heard upon the demurrer of the said Patrick Molony to the petition of the said Henry Chouteau and the court being fully advised in the premises, is of opinion that the said petition and the matters therein contained are not sufficient in law to maintain the action of the said Henry Chouteau against the said Patrick Moloney and the said plaintiff declining to amend but standing by his petition, therefore it is considered that the said Patrick Molony go hence without delay and recover of the said Henry Chouteau his costs in his behalf expended taxed to \$85.50.

This was the famous Dubuque Claim case, which involved the title to all of the land now comprising the city of Dubuque and nearly two-thirds of Dubuque county. The significant fact in our search for the location of the first Federal court sessions is that the ruling from which appeal was taken to the Supreme Court of the United States was made in the District Court of Iowa, Northern Division at Dubuque. The leading attorney for the city of Dubuque and the settlers whose property rights and very existence were involved in that litigation, was Thomas S. Wilson of Dubuque, a lawyer of outstanding ability and who in 1847 had resigned as a member of the Supreme Court of Iowa.

In a reminiscent article written by him years later, and published in the *Herald* newspaper on April 17, 1887, Judge Wilson referred to the fact that this famous case was brought in the United States District Court at Dubuque before Judge J. J. Dyer. This coincides with the record in Mr. McNeely's office showing that Judge Dyer sustained the demurrer to plaintiff's petition and it was from this ruling that the case was taken to the United

States Supreme Court by writ of error. It may be asked then, how does that indicate where in Dubuque the Federal Court was held? The connecting link is found in another article appearing in the *Herald* newspaper on January 22, 1893. At an elaborate celebration in connection with the completion of our present county courthouse, J. H. Shields responded to the toast "The Old Courthouse". In the course of his remarks he commented on the fact that it was begun in 1839 and finished in 1843; that the plans were made by Samuel Wilkins and for which the county paid him \$8.00. He said:

#### MR. SHIELD'S RECOLLECTIONS

My earliest recollections are connected with the old courthouse. My old home, built in 1837, five years before I was born, is still standing on White Street just east of the courthouse. This house, the Edward Langworthy homestead farther up on the same street, and the Leroy Jackson house on the corner of Eleventh and Iowa, all occupied today, were the three first brick houses built in Dubuque; the Jackson house was the first in the state and all were very pretentious and elegant for that time.

The old brick courthouse as I first remember it was about one-half the size of the building as most of you knew it, and stood in the middle of the grassy square, with a tower covered with shining tin rising from the center of the roof, and its adjunct, a hewed-log jail two stories high, stood in the rear on Eighth Street.

It was in its day the largest and finest public building on the Mississippi north of St. Louis. It was the most important building in town, and was used for all public purposes.

Many important and famous old cases have been tried within its brown walls. Here, in the matter of Ralph, a slave from Missouri, on habeas corpus, was first promulgated the doctrine that when a slave, with the consent of his master, becomes a resident of a free state, he could not be regarded as a fugitive slave, and Judge T. S. Wilson delivered the opinion.

The great Julien Dubuque Spanish grant case, involving the title to seven leagues of territory, from the mouth of the Maquoketa to the mouth of the Tete Des Morts, including the city of Dubuque, was first tried in the old courthouse and determined finally by the supreme court of the United States. Three Indians, the perpetrators of the last Indian massacre near Dubuque, were here tried and convicted for the murder of a trader by the name of Tegardau and his family.

It would thus seem to be clearly established that the so-called Dubuque Claim case was tried in the Federal court which held its terms in the then new county courthouse at 7th and Clay street (now Central avenue) in Dubuque. This conclusion is further strengthened by the fact that there was apparently no other public place in Dubuque available for holding court. There was no permanent postoffice or customs house building. The postoffice had moved from time to time with the changing post-



masters from lower Main street to 7th and Iowa streets and then to the old Globe building near 5th and Main streets, where the mail was distributed in 1850. The city of Dubuque conducted its business in a small building at 5th and Locust Streets subsequently occupied by Dr. Staples. Prior to the completion of the courthouse in 1843 the territorial court, as well as conventions and public gatherings of all kinds, was held in the little log building primarily built as the Methodist church and located on the Locust Street side of the Washington Square just across the street from where we are now.

All indications therefore point to the fact that during the period in question the Federal court held its sessions in the county courthouse at 7th and Clay streets. The only possible doubt arises from an article appearing in the *Herald* newspaper on February 15, 1891, in the nature of a reporter's news item on the Chouteau vs. Molony case and states that

The case was first tried in the state court and was taken thence to the United States District court where Judge J. J. Dyer decided in favor of the settlers.

If it was a trial in the state court that Mr. Shields referred to in his statement that the case was first tried in the old court house, then our best evidence that the Federal court met in the courthouse loses its value. However the article referred to was undoubtedly written by a layman who might have had in mind a prior action which was brought at Galena, Illinois.

After Julien Dubuque's death the federal government leased much of the land to lead diggers and a considerable part of the minerals mined on the land was taken to Galena to be converted into lead. Those claiming as assignees of Julien Dubuque brought suit to test the question of title to the mineral which had been taken to Galena. But at the trial they were not able to identify the mineral which came from the Julien Dubuque mines since it was commingled with other mineral which had been taken to Galena and a non-suit was taken. This may have been the state court proceeding referred to in the newspaper article of February 15, 1891.

Therefore, I am not inclined to regard that statement as sufficient evidence to refute the chain of circumstances that points to the County Courthouse as the place where the court was held . . .

In conclusion, the thing that I pass to you all has been better said than I can, that throughout these one hundred years the faith of our fathers has been vindicated and justified. I cannot help but think of your experience and mine many times as we have, especially as I recall in the middle 90's, going across this wonderful state of Iowa in a passenger train, with the coal-burning

stove in the front of the car, seeing that little family from a far-off land beyond the seas hardly able to ask for a drink of water in the language of our country; and yet seeing those same children, sitting there as silent witnesses to the wonders before them, now judges upon our benches, United States attorneys, teachers in our schools and colleges, and representatives in our congress and our various legislatures. No other place, as Mr. Diamond said, "on God's green footstool," are such things possible as in the United States of America.

### ABILITY, LOYALTY AND CO-OPERATION

The concluding address of the court session was rightfully that of the presiding jurist, Judge Henry N. Graven. In presenting him Chairman Kenline said:

Judge Graven comes to us clothed with many distinctions in the service of the government. Before becoming a member of the judiciary of the Federal bench, he was judge for the state district court of Iowa, and served the government in many other capacities. As able as were his predecessors, none served this court more ably or with greater devotion than the incumbent, and I think it is fitting that I give this brief biography of his life.

Judge Henry N. Graven was born at St. James, Minnesota, on June 1, 1893. He obtained the BA and LLB degrees from the University of Minnesota in 1921. He was given the LLD by Capital University, Columbus, Ohio, in 1942. He was admitted to the bar in 1921. In 1936-1937 he was special assistant attorney general of Iowa and counsel to the Iowa state highway commission. He was judge of the Twelfth judicial district of the state of Iowa 1937-1944. He was appointed judge of the United States District court for the Northern District of Iowa, took the oath of office and entered upon his duties as judge March 30, 1944. During World War I he served with the combat engineers of the U. S. army. He is chairman of the board of pensions of the American Lutheran church. He is a member of the Order of Coif, and during the period 1919-1921 was a member of the editorial board of the *Minnesota Law Review*. The family home is in Greene.

Besides paying tribute to the distinguished character of his predecessors on the bench of this court, and praising the fidelity and efficiency of its staff of officials, Judge Graven referred to the important litigation of the early years previously outlined by Mr. Clewell, and briefly surveyed the history of the beginnings of courts in the Iowa area, saying in part:

Since the area now included in the Northern District of Iowa passed to the United States by the Louisiana Purchase in 1803, it might seem surprising that no Federal court was held in that area until 1850. However, it is the estimate of one historian that as late as 1832 there were not more than fifty white people living in what is now the state of Iowa. For a period of time both before and after 1832 there were no courts for the area.

It was during this period that the lead miners at Dubuque established the so-called Miner's court, which assumed jurisdiction, without benefit of statute, for any matters needing attention, even to the extent of trying a man for murder, finding him guilty, sentencing him to be hung, and carrying out the sentence.

The first session of the court was held at a place of great historical interest. For considerable time prior to the coming of the white man the Indians had known of the presence of lead in and around Dubuque and had been mining lead. It had long been the site of an Indian village. One of the earliest white men connected with Dubuque was Jean Marie Cardinal, who set up a post here for trading with the Indians around 1770. Jean Marie Cardinal was Iowa's first and only casualty in the Revolutionary war. In 1780, during that war, a detachment of British and Indians attacked what is referred to as the "Village of St. Louis." Jean Marie Cardinal was killed repelling the attack. Cardinal avenue in St. Louis is named after him.

Misconduct of counsel (in the early courts) was not unknown. The record of the court for the session of January 10, 1852, show a contempt proceeding against one of the leaders of the bar in Iowa. The outcome of the proceeding was as follows:

This day came the said Dft and purged himself of the contempt of which he stands charged by his own statement, disclaiming all improper or unworthy motive or any design to interrupt or hinder the due administration of justice, and the introduction of testimony.

And the court being satisfied in the premises, it is considered that the said defendant be discharged and go hence without day.

In contempt proceedings against one Vansickle, Judge Dyer on January 3, 1854, ordered "that an alias Pluries Capias issue" be issued against him. That formidable writ seemed to have the desired effect, for the later court records indicated that Vansickle made amends for his conduct.

In the record of a criminal case tried before Judge Dyer in 1852, it is recited that the "defendants plead not guilty and for trial *put themselves upon the Country* and thereupon came a jury." (Italics supplied.)



## LAUDS COURT STAFF AND BAR

Commending the value and loyalty of the court staff and the important functions of the bar of the district, the judge said:

While the judges play an important part in the administration of justice, there are others who play parts of equal importance. Among those are the members of the court staff. They are the ones with whom the public comes in contact more directly, and the attitude of the public towards the courts will, to a considerable extent, be determined by the manner in which the members of the court staff discharge the duties of their offices.

This district has been, and is, most fortunate in the character and ability of the members of the court staff. They have served, and do serve, the public ably, efficiently and courteously. They have represented, and do represent, public service at its best.

There are others who play an important part in the administration of justice. Among such are the members of the bar. In the long run the administration of justice will be largely shaped and determined by the actions and attitude of the members of the bar. With the help and cooperation of the members of the bar the court can do much to improve the administration of justice. It has been, and is, a desired objective, in the administration of justice, that cases be disposed of promptly and on their merits, instead of being disposed of after long delays and upon technicalities. It has been my experience as a judge of this court that the members of the bar of this court have cooperated willingly and whole-heartedly in methods and procedures, having for their objective the prompt disposition of cases on their merits. I wish to express my deep appreciation to them for such cooperation.

An examination of the cases which came before the courts 100 years ago shows that some of those cases dealt with damages growing out of collisions between river steamboats, and injuries sustained because of mishaps to stagecoaches, as contrasted with cases coming before the courts today involving collisions between motor vehicles and injuries sustained because of airplanes.

While factual situations in cases coming before the courts change from century to century, the fundamental principles of justice are permanent and everlasting. It is my wish and hope that those of us who now carry on the work of judicial administration in this district may never depart from those fundamental principles, and that we may never lower the high standards of judicial administration which have been set by those who carried on before us.

I wish to express my deep appreciation to Judge Chalmers, Chairman Kenline, the members of the committee, and the members of the court staff, and all who have cooperated to make this occasion what it is. And it is our hope that perhaps on January 7, 2050, the records of what we did here today will be of as much interest to them as are the records of the session of January 7, 1850, to us today.

#### LUNCHEON ADDRESS BY WM. F. RILEY

Following the formal program at the courthouse a luncheon was given at Hotel Julien, presided over by Judge Chalmers. The invocation was delivered by the Most Rev. Leo Binz, coadjutor archbishop of Dubuque. The benediction at the close of the meeting was pronounced by the Rev. Fred J. Landdeck, president of the Dubuque ministerial association.

Judge Chalmers introduced as the after-dinner speaker William F. Riley, of Des Moines, president of the Iowa state bar association, who said in part:

Properly to observe this anniversary one must take the perspective of a Janus. One must look back at the century that has passed—long, in the life of man; brief, in the span of history—to see and to interpret what is past. But also, one must look forward to the century that is to come, appearing longer in the life of man, to project what is to be and what can be, in the light of what has been.

Let us first look back into this century now ending, confining our gaze to the corridors of this court, and its history. That is not a narrow perspective, because through these corridors and to and from this court has flowed a never-ending stream of humanity, carrying on its surface what is good and bad, what is noble or less so, and carrying also with it the hopes and aspirations and finer ideals and resolves of our fellow-men.

This court began with the calling of a jury and with the admission of lawyers to practice before its bar. Both acts symbolized the American conception of justice—the first, the right of every citizen to have questions concerning his life, his liberty or his property to be determined by a jury of his peers; the second, the right of every citizen to have his cause presented by counsel of his own free choice.

One could speak at length of the jury system, its merits and disadvantages. Others have done it better. Rather, let us look back and perhaps also forward as to the calling of lawyers to its bar, and then, at the court itself. By this method we usurp the privileges of the Janus as we look both ways.

## THE BAR OF THE COURT

As to the bar of the court, it has been well said by Mr. Justice Jackson:

As society is organized in this country, the law office is the very base of the pyramid-like structure on which we depend to administer justice. "It too often is overlooked that the lawyer and the law office are indispensable parts of our administration of justice. Law-abiding people can go nowhere else to learn the ever-changing and constantly-multiplying rules by which they must behave and to obtain redress for their wrongs." Hickman v. Taylor, 329 U. S. 495, 514-515. The law office indeed is the vestibule to the courts.

The men who presented themselves for admission to this bar in 1850 were almost entirely men first admitted to the bar of Iowa. Already they were committed to perform the duties of attorneys and counsellors as defined by the laws of Iowa. It is a matter of more than passing interest that those duties as contained in the code of Iowa 1851 were *identical* with those appearing in the code of Iowa today.

Those duties were delineated by our pioneer forbears at the bar—men who recognized, accepted and defined the duties as those pertaining to a great and learned profession which put public service above personal gain. Those men wrote a standard for themselves and other men of honor and ideals. They recognized that the practice of law was a *privilege* not a right, that men admitted to the bar were first officers of the court and only later, free to offer their services for a fee. They believed then as we must believe today that when there arose a conflict between their duty to the court and the desire of the client, their first duty was to the court.

We must be today as eager and zealous to observe these duties so defined as 100 years ago. We must now, as then, make character a primary test of fitness to be admitted. The rules of admission prescribe certain educational requirements, or their equivalent. They require, too, a certificate of character, but make no provision for *its* equivalent. That, gentlemen, is because there is no equivalent for character. It is a must and a *sine que non* for admission to the bar of this court and of every court.

## OBLIGATIONS OF THE LEGAL PROFESSION

We hear much these days of public relations programs, all designed to improve the relations between the public and the legal profession. I am sure that you share my belief that nothing will improve those relations so effectively as will the personal conduct of the lawyer in his profession, and the personal conduct and example of the lawyer as a citizen. By choosing to enter the profession of the law we accept well-defined obligations and duties.



We take a solemn oath to observe and discharge them. No man entering business for a profit so obligates himself. In our professional relation there is no rule of *caveat emptor* or of implied warranty. There is instead an express undertaking written into the law of this state. Our oath gives it even the higher sanction of conscience.

Not only must the public be able to rely upon the faithful discharge by us of these sworn duties, but the men of this bar and the court must see to it that the dereliction of a member receives the swift and certain discipline which the transgression may require.

Should it be said by the skeptic that times have changed, that the relation of attorney and client must change with the times, let us remind him that the rules which govern and describe that relation have not changed in these 100 years. When the rules change, the practice of law will cease to be a profession. The relationship of trust and confidence will no longer exist. The lawyer no longer will be an officer of the court. Chicanery and trickery and artifice and cunning will be rewarded, rather than penalized.

The public for whose benefit courts were created and organized and for whom the courts received the power to admit and discipline those who practice before the bar would suffer immeasurably and would be first to protest the change.

We of our profession, bench and bar have made these rules in the public interest. Our new rules of civil procedure, federal and state, are adopted in the public interest that the administration of justice may be prompt, economical, simple and complete for any citizen. Our oath is more strict than that of Hippocrates. We must keep it so and make the penalty for its violation swift and certain.

#### HIGH INTEGRITY OF THE COURTS

Looking back at the bench of this district, it is surprising how few men have served—only six in its 100 years. They have been men of honor, ability and dignity, and I pay them high compliment when I say that none were the peer of their present successor. It would be easy to say more of him, and all here would concur.

These men were recruited from the bar. That is true, too, of the judges of the sister district, and of all of our Iowa courts. The statement of Mr. Justice Jackson that "the law office is the vestibule to the courts" is true too, in this sense.

It places on the bar the greater duty of requiring and preserving high integrity in its membership, of seeing to it that always there is kept before the individual lawyer and the organized bar the

high responsibility of their calling. You accept, I know, the truth of what I have said. My justification for saying it is that it cannot be too often recalled and repeated. We might well read our canons of ethics and re-read them as we re-read our bible or our missal. They are our standards of conduct—the precepts for our chosen profession.

The responsibility and opportunity of men of the bar in our relation to the court and the community is immeasurable. May I specify? Are your fellow townsmen, your luncheon group, your neighbors conscious of the place of the court in our tri-partite system? We may help them to become so. I believe it to be our duty to make them realize its relation and meaning to them.

It is for us to interpret it to them. The average layman knows that our government has three branches—legislative, executive and judicial—that the first is composed of his chosen representatives to legislate for him, that the second executes the laws, and that the third possesses the judicial power.

But does he know that he has no *right*—and I mean right in the sense of power or privilege—to demand an audience or to appear in person before those first two branches of his government? He may “petition the government for redress of his grievances”; he may ask for an audience with the chief executive and get it as a matter of grace, not of right. He may be invited to appear before a legislative body or one of its committees. He may ask that privilege and it may be denied. He is not entitled to appear as a *right*.

But does he know that to the court, to which we do honor today, he may come not as a matter of grace, not as a privilege, but by virtue of his citizenship and in the exercise of a *right*? He comes to the court, no matter what his estate or position, in his full dignity as a man and as a citizen, and no man can gainsay him. He may come in his own person to plead his own cause.

Does the average citizen know—he should—that the first ten amendments to the constitution—his bill of rights—define rights for the protection of which he turns in greatest measure, not to the other branches of his government, but to the court?

It is to the court that the citizen may turn to interpret, apply and enforce laws made by him through his freely chosen representatives. It protects him whenever an arbitrary, wilful or despotic majority attempts to invade or violate his rights, whether they relate to his person or property. Its independence and integrity are his greatest interest and asset as a citizen in a free government.

If he understands these things I have mentioned; if he knows how intimately the safety and protection of his family, his person, his property, even his church, is related to maintaining inviolate the independence and integrity of his court, he will be its most ardent, loyal and able champion.

We of the bar, as officers of the court, and as equal citizens with him, must make him conscious of his dependence on and relation to the court.

#### PROTECT THE COURTS FROM DANGERS

In the century that has passed I doubt that any page will record any attempt to impair, dishonor, or destroy his court, either through malevolent design or through selfishness or ignorance. I wish that the history of the next 100 years may include no such page. It will not if we are vigilant, alert and aggressive.

But there is danger from within as well as from without. Those who have sought to destroy government seek first the control of law enforcement agencies. The enemies of freedom strike first at the agency which most protects freedom.

There is danger from men well-meaning, but without understanding, men without malice, but without appreciation of the consequences of their acts. The bar has a responsibility in this new century to be jealous of the character, training and ability of the men who will come to the bench by appointment—as well as of the men elected to the bench of this state. We may secure and safeguard its integrity by having only men of integrity available for selection.

We must be jealous too, of its independence by protecting the attacks upon it. Remember that the people have entrusted us—bench and bar—the judges and the lawyers—with the administration of justice—with control over their liberties and property.

They have a right to hold us to some accountability for the manner of the operation of its machinery. And we have a medium today through which we may act more effectively than in the past. I refer to the organized bar.

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#### CONESTOGA STOGIES

The humble stogie derives its name from the fact that it was the favorite smoke of the men who drove the famed Conestoga wagons having their origin among the Dutch farmers of the Conestoga valley, Lancaster County, Pennsylvania.



## KASSON LETTERS—AUSTRIA AND GERMANY

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The eminent attainments and brilliant career of John A. Kasson, as a citizen of Iowa, as a member of its legislature at a critical time, and of the U. S. congress, also as a diplomat in the courts of Europe, are familiar to most Iowans. No public man of this commonwealth has stood higher or deserved greater confidence. Incidents of his long and notable public service have been recited in many articles published in years past in *THE ANNALS*. Whether as minister, as ambassador, as envoy or commissioner representing the United States, he served with honor and distinction, usually gaining the chief point of the position of his country in important negotiations.

In later years Mr. Kasson received some most interesting and informative personal letters from acquaintances made in Austria and Germany, containing significant court sidelights, which are now in the hands of a great niece, Miss Eunice Wead, of Hartford, Conn., who in the article appearing below identifies the writers and persons mentioned in the correspondence and adds enlightening comment, quoting copiously from these letters, which now augment in notable way the extensive Kasson collection of papers in the Manuscript Division of the Iowa State Department of History and Archives. Following the death of Mr. Kasson, her father, the late Charles K. Wead, was the donor of another important group of his uncle's papers.

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Edited by EUNICE WEAD

The following letters from Austria and Germany, which have recently come to light, were written in 1888 and 1889 to John A. Kasson, United States minister to those countries from 1877-81 and from 1884-85, respectively. The first letter, with its touch of German idiom, is evidently in response to his request from a personal friend for a report on the mysterious death of Crown Prince Rudolf at Meierling. The others furnish interesting comment from persons close to the court upon the illness and tragic "hundred days" of the Emperor Frederick, and the succession of his son, William II.

DEATH SCANDAL OF CROWN PRINCE

Vienna 24th of February (1889) immediately  
after having received yours from the 9th

My dear friend,

I haste to answer your letter, although you may not be entirely satisfied with the details I can give you, as we ourselves are

still in the dark, and the supposition that he did not kill himself, but was killed, keeps still ground.

I'll tell you all I know about it. It is true that Rudolf was demoralised and had begun to drink over measure, and to seek rather low society. It is true that he was unhappy with his wife, who did not understand him, nor did she try to fascinate him. She did not like him a bit, and is rather a cold woman, having also not cared for her child till now. Still she was unhappy enough, and can be excused.

The Crownprince had many love affairs with different women, but the last girl was fatal to him. Of a good family, quite recue in the best circles, the young baroness Vecsера was a real beauty of the Oriental style. Her mother, a born Baltazzy, is said to have had a very bad reputation, and to have known of the liason of her daughter with the Crownprince. The Crownprince desired a divorce from Stephanie and had privately written to the Pope about it—who gave notice to the present Nuntio Galimberti—who then informed the Emperor about this intention of his son. There followed a scene between father and son. The Crownprince begged his father to allow a divorce, and to deprive him of all rights to the throne in order that he might marry the Baroness Vecsера. The Emperor of course refused, and it is said that the son said these words: "If you refuse I shall never appear in these rooms again." These are said to be the last words the son spoke to the father.

On Sunday was a *soirée* at Princess Reuss', where the Crownprince appeared with Stephanie and the young girl too, beautifully dressed and covered with diamonds. On Monday the Crownprince went to Meierling, the Baroness went shopping with the Countess Larisch (the niece of our Emperess) and on Kohlmarkt, she descended from the carriage, went into another street, where the *fiacre* Bratfisch of the Crownprince waited and so she went to the Crownprince at some place outside of Vienna and went with him to Meierling.

On Tuesday there was a court family dinner to which the Crownprince was expected, but excused himself by being unwell. The Emperor seemed very much agitated at the non-appearance of his son. On Wednesday in the morning he was found dead in his bed, and the girl at his side. Some say she was shot by him, others that she took poison. Officially "suicide" was pronounced, but those who have seen him say that he had several wounds, that his fingers were broken, and his body mutilated. So it is believed and reported, that some act of jealousy was his death, that two muffled persons attacked him and struck him dead and that the girl hearing him scream, came to his rescue with a pistol, saw him lying senseless, and killed herself or was killed. It is

also said, that he regained yet his senses, but suffered dreadfully and died in two hours.

All this is dreadfully mysterious. She was secretly buried in the neighbourhood, her mother and sister have gone to Greece. People who have in these last times seen and spoken with the Prince, say that he was restless and changable. It is also said that the Prince of Coburg, his brother in law, and the Count Hoyos who were with him, did not know that the Baroness was with him, but supposed another woman.

A gentleman who went to Meierling to bring his corpse to Vienna said that she was even in death beautiful, all covered with flowers.

I have seen the unhappy girl. She *was* a beauty and her eyes were of dark blue, quiet irresistible. Details one cannot hear, those who know them are not allowed to betray them, and Heaven knows when one shall hear the truth. The Empress behaved bravely; it was she who told the dreadful news to the Emperor and who upheld his courage. The widow is not so afflicted about his death, but more about the loss of her position. She is at any rate to be pitied, and I find it cruel to leave her alone at Miramare, where already another Belgian Princess (Charlotte of Mexico) had her tragedy.

The Emperor is broken down, although he works as before day and night—it seems as if this event had united him to his wife. He wrote to the King of Rumania: *Je suis humilié comme Père, humilié comme Empereur, humilié dans mon honneur devant tout le monde entier.* The successor of our Emperor would now be his brother Charles Ludwig and then his son Franz Este who till now had not a splendid reputation.

Our papers were not allowed to write anything beyond what was officially published—they are all unanimous in praising the Crownprince—and as you know, Rudolf was a great friend of the journalists, having written himself very well. He was gifted in a high degree and very sympathetic—also handsome these last years. He was gay and enjoyed life too much, therefore one cannot believe that he himself put an end to it. He could have kept the girl as his maitresse, as her virtue was not of the greatest ones.

There were reported stories about a Princess Auersperg, the great friend of the Archduchess Valerie, having also been a victim of his love, but people who know all about her, deny everything, and now the story that her brother killed the Prince cannot be true, as he is here in Vienna as officer still. Now, my dear friend, if you are not any clearer after this letter, I cannot help, as nobody knows the truth, and shall ever know it perhaps.

Vienna is a very quiet town, no balls, no court festivals. Do you know where Meierling is? an hour's way off Baden, quite a solitary place in the country . . .

Always yours sincerely,  
JOSÉ



## AMERICAN WOMEN MARRY ABROAD

The following letter was written by Mrs. A. D. Lee, the widow of David Lee, a prosperous New York merchant of a century ago. Three of their daughters married abroad, two of them into the German nobility, namely Josephine, who married Baron August von Waechter, representative of the King of Wurtemberg at the French court about the middle of the 19th century, and Mary Esther, Countess Waldersee, who figures in this letter. Mary was born in 1837, went as a young woman to live with her older sister in Paris, and there married Prince Frederick of Schleswig Holstein, who had been driven into exile by the Austro-Prussian army in 1864. She induced him to give up his rights and titles as a member of the Danish royal house, and they were known as the Prince and Princess Noër, from the name of his principal estate. He died while on a visit to the Holy Land in 1865, shortly after their marriage. She returned to Paris, to remain until the outbreak of the Franco-Prussian war drove her and her sister to Würtemberg. In 1871 Mary married Alfred Count Waldersee, who subsequently became Moltke's principal assistant on the general staff at Berlin, and in 1888 his successor as chief of staff. Among his distinguished assignments was the command of the joint European forces which defended the legations in Peking during the Boxer uprising in 1900.

The Countess Waldersee was a woman of genuine religious temperament, full of good works, much involved in the affairs of the court church, and a friend of both the emperors and their wives. Mrs. Lee was apparently living with her daughter, not only at the time this letter was written but for a number of years, for the Count's *Denkwürdigkeiten*, posthumously published in 1922-25, contain several affectionate and appreciative references to his mother-in-law, whose death he records as of March 30, 1898, at the age of ninety-seven. She was eighty-seven when she wrote this letter, which seems in its note of anti-semitism and Prussian militarism curiously to foreshadow the great crises of half a century later.

## RIVALRIES CAUSE FRICTION

Berlin March 8th /89

My dear Mr. Kasson:

. . . .I am grieved to know such bad reports of the Emperor are rife in America. Still I thank you for telling me, as it gives oppor'y (opportunity) to let you know the truth. A malicious set of Jews are here, who thinking it unlikely the Emperor wd befriend them, have put their heads together to injure him in every possible way they can both on this and our side the water and preaching up want of filial feeling as their best capital they work straight through lies. No truth in what they say for that is not their stronghold—it helps to "push the bad forward" and that's enough for them.

I think I am in position to know and I can truly say I have not heard the first word as uttered by the Emperor<sup>1</sup> against his royal mother, he was a dutiful son very fond of his father and with him all that was possible. After his death Emperor managed everything in a most praiseworthy manner and is popular here. He keeps the royal family in mourning until the middle of June and after the anniversaries of death and burial of his father at Potsdam. I have read somewhere that by a law of Prussia if heir to the throne had an incurable malady, it (the throne) must pass to next heir. I don't know if its true, but if it is I've never heard of the Emperor even hinting such a thing. As far as I know he has always treated his mother Empress Frederic with greatest respect.

You doubtless have heard of Dr. Mackenzie when has was first called to Berlin to attend the Crownprince. Grand Duchess of Baden then staying with her father told Mary the English Dr made light of her brother's trouble, was using iodine, had cured hundreds of throats of a similar kind and believed he wd cure the Prince. This gave much encouragement. A warmer atmosphere was advised and they went to San Remo. A Gen'l who was much with them dined with us one day, said consultation of six German Drs had decided the case was cancer, but Dr Mac had gained the perfect confidence of the Princess by assuring her it was no cancer and her husband wd be well in a short time. Queen Victoria seemed to cling to the same idea and as a general thing it was so supposed at London. In the illustra'd papers the Prince was made to appear quite himself again. The last print I saw was "Emperor Frederic taking his daily drive in pony chaise" in extensive grounds of palace at Potsdam. He was erect in open chaise and looking quite natural in military garb and giving military salute to the crowd surrounding. At that very time he was in bed and close to the end.

<sup>1</sup>Wilhelm II.

O, how much has taken place since I last wrote you—a letter cannot hold it all. I'll come to the time that Emperor Wilhelm II opened parliament, he first directed service in the chapel of the castle, Dr Koegel<sup>2</sup> preached from the text given by the Emperor "By the Grace of God I am what I am." Mary said the discourse was very solemn and impressive and the Emperor seemed to feel it much. She only staid for religious service, Alfred remained. Emperor, when simply Prince Wm. admired Alfred's military taste and was sure to come when A. lectured to officers. Later Alfred joined him in devotion to his grandfather, thus their friendship strengthened and they are now firm friends. I may say as much for Empress and Mary. They both with her two sisters, Princess of Schleswig Holstein called here on New Year's day and have been here since. I think it wise in Emperor to visit different sovereigns. By so doing he has at least secured the long craved peace, for the present.

My son passed Holidays with us, on his return voyage came Jan 27th the Emperor's birthday, passengers were mostly German and he wrote their enthusiasm was tremendous. They cheered loudly, emptied many a glass to his honor and ceased not for a long time wishing new Emperor every good possible. He is certainly popular, whatever lies Jews may tell to the contrary. I hope dear Mr. Kasson you will improve every oppor'y to let yr friends know the base origin of the bad reports.

On eve'g previous to birthday Alfred gave a dinner in honor of Emperor of 63 covers—officers of general staff—in great library of this building, first time a meal was ever served there. Next day Alfred dined with Emperor, Mary had herself excused on acct of Sunday. The Prussian Order of Red Eagle has three classes; on this birthday the Emperor gave to Alf'd the highest order, he also made him a life member of Prussian House of Lords. In early Feb. he went there for the first time to take the oath, Mary with him, and it was full of interest for her. This is form of oath, "I, Alfred Count Waldersee swear it, by God's help, through our Lord Jesus Christ to everlasting salvation." Mary said Alfred stood alone and it was very solemn. You may already know of the oath, but it will not harm to tell it in this connection.

I have a lot of good to tell you of our neighbor Moltke . . . . Last Friday the 8th was 70th anniversary of Moltke's care (?) of Army. He did not wish any notice taken of it, but that was impossible. Emperor, Empress and their three eldest boys came to greet him. Alfred also was there any many others. The better to please, Mary and I held off till next day, a soldier carried our tribute, beautiful arrangement of flowers as clover leaf. We entered the spacious apartment and congratulated the great

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<sup>2</sup>Rudolf Koegel, court preacher.



Moltke. He cordially welcomed us, showed us many gifts he had rec'd, among them a fine bronze bust of Emperor. In fact his rooms are full of interest. He took us into his own room where he writes so much. I told him for sake of Germany I wished he might live 70 years longer. He bears his age remarkably, no one wd suppose he was over 80, step still firm . . . .

A friend recently told me she saw at Legation Minister Pendleton. Another told me last night, when speaking of you, that Bismarck was wishing to see you. I think this will raise yr circulation . . . . Few days ago I was surprised by the coming of Wurtemberg Minister to give from his King to my Mary the "Olga Order," the same he had just given to my daughter "Baroness v. Waechter," in souvenir of the good both were trying to do . . . .

Speaking of Bismarck, a lot of papers declaring entire enmity between Chancellor and Ct. Waldersee may have reached you. Alfred thought such a lie shd be stopt, he wrote note to B. asking him to set a time for him to call. He replied "come at once, I'm always glad to see you." They talked the matter over, parted in most friendly way and had that put in paper.

After our return in autumn Bismarck invited Alfred to pay him a visit at his estate Friedrichsruh. He sent principal aide de camp to station for Alfred and with the Princess warmly welcomed him. Next morn'g he showed Alfred over his grounds, shooting Park etc. etc. He bro't his pipe to Alfred's room, seated himself in an easy-chair and they had a long talk. When time came for leaving Bismarck came himself to station with Alfred and A. was well pleased by his visit—sent you I think a paper telling of great Fete at Russian embassy. 40 were invited to dinner, host and hostess Count and Countess Shouvaloff gave up their places at table to Emperor and Empress so they shd sit opposite.<sup>3</sup> Herbert Bismarck led in Mary and placed her next the Emperor and the ambassador sat at his right. If I can see you I will tell of little pleasantry between Emperor and Mary . . . .

Alfred and my Mary join in kindest remembrances and I am now and ever faithfully yr friend

A. D. LEE

A less partial observer than her mother also pays tribute to this American-born woman who came to stand in high places, and the Letters of Empress Frederick, published in 1929, allude occasionally to the Countess von Waldersee. The Count, however, was *persona non grata*. Sir Frederick Ponsonby, editor of the Letters, observes that in 1889 "there was steadily growing in the German

<sup>3</sup>In accordance with the custom that royalty are considered hosts, not guests.

court . . . . influence that was destined to have the most deplorable effect upon the Emperor William II. For some years there had been in his immediate entourage a Prussian officer of Chauvinist views—Count von Waldersee, who, in the various campaigns since 1866, had proved his undoubted military ability. In 1881 he became von Moltke's chief of staff, and when Moltke retired Waldersee stepped into his shoes as chief of the general staff. There were now signs of a growing rivalry between Waldersee and the Bismarcks. To her mother Queen Victoria the Empress wrote in July, 1889: "You may have heard about the rivalry between the Bismarcks and Count Waldersee . . . It is he who has set William so against me for years! . . . . Neither the late Emperor William nor Fritz could bear him and distrusted him very much—he is not nearly as clever as Moltke, and a very shifty and changeable individual. She (Countess von Waldersee) is a very good woman but violently Low Church, a partisan of Stöcker's<sup>4</sup> and a very great friend of Dona's (the Empress, wife of Wilhelm II). The Stöcker party are hated in Germany . . . ."

County Waldersee, in his reminiscences, refers to newspaper reports at home and abroad to the effect that the Countess had unlimited influence upon the Empress and also upon the Emperor, and there are many allusions to the friendship between them, for instance the Waldersees' visit to Kiel for a royal christening. This intimacy is not difficult to account for, since the Countess' first husband, the Prince of Schleswig Holstein, was a great-uncle of the Empress.

#### EMPEROR FREDERICK'S IMPENDING DEATH

The following letters containing less specific comment are from the Countess von Arnim, a minor authoress, wife of Hermann, Count von Arnim, a government official and member of the Reichstag. Perhaps the most interesting part is the feminine remark on that epochal book "The Natural Law in the Spiritual World."

<sup>4</sup>Adolf Stöcker, one of the court preachers, advocate of Christian socialism, member of the Prussian Diet, leader in the anti-semitis movement.

Greifswald, (Pommeranie)  
March 19th 88

My Dear Mr. Kasson,

You will have heard by this time everything about the great & sad events which have so suddenly come upon our whole country & brought grief & anxiety to every loyal heart. The unexpected decease of our beloved & venerated Emperor is deeply felt all through our wide "fatherland" & as for us Prussians, it seems to us as if each of us had lost a father & a friend. The illness of our poor new "Kaiser" is the most sad & tragical thing one can imagine. All the physicians believe that he will not live longer than a month or two; he tries to take up the burden of the "Regierung", & works with the ministers & tries to do his duty to the last, but he is a dying man. It is most touching, but grieving at the same time, to hear details which do not come into the papers, relating to his malady & to the efforts he makes to conquer it as far as possible by courage, patience & energy. To think of what he, our young Crownprince Wilhelm, & the whole royal family have had to go through these last 3 weeks! It is too much. What the future may bring us, who will dare to say, but it is sure to have dark days in store for us. Think of France & Russia . . .

I am ever yours very sincerely & faithfully  
Caroline v Arnim

#### AN ESTIMATE OF KAISER WILHELM

Carlsburg bei Züssow, Nov. 11, 1888.

My dear Mr. Kasson,

I look at the date of your kind letter . . . I will proceed now to tell you that I believe you are quite right in what you write about our young Emperor. In the few months of his reign he has shown that his intentions are peaceable ones, that he has the highest & purest aims, & that he stands above the noise and strife of "parties" (can one say that for political "Parteien"?). He surely does not allow himself to be trifled with, & though he has, I believe, a heart that feels deeply & warmly, yet there is nothing in his character of the softness (too great alas) which so characterized his father, our poor martyred Emperor Frederic. I am afraid the rumors about his not agreeing with his mother are very near the truth, & surely there is a fault on both sides, but he has had to suffer more than a man can bear at her hands. Our young William will certainly make many a mistake, & that will be only natural in one so young & so fiery, but I believe him to be gifted with a particularly kingly disposition, in fact to be born a king & ruler . . .

I am ever yours faithfully and sincerely  
Cv Arnim



## AUDUBON COUNTY'S "TROUBLESOME GANG"

By JUDGE H. J. MANTZ

The data which the writer has used in this article has been gathered from various sources—newspaper accounts, letters written about the time of some of the incidents set forth, court records, talks many years later with some of the active participants, and some from personal observations. Some incidents are included which took place in the early history of the county. From them one would conclude that crime does not pay, and that the patience and forbearance of peaceable citizens have limitations; also that ordinarily peaceful citizens sometimes use extra-judicial activities to curb crime, and frequently with wholesome results.

The incidents recited were given much publicity, and the impression got about that the people of Audubon county were a law-breaking, reckless type, and on slight provocation would use what might be termed "frontier justice". However, in fact they were peaceable and law-abiding as a general rule. For some years crime had been on the increase and frequently was unpunished. In 1884, following the last episode recited below, there were but three murders in the county. Thereupon, the people of the county concluded that crime should not go unpunished and to insure their own safety and that of the community took drastic action.

Audubon county as laid out by legislative act was named for that eminent naturalist and ornithologist, John James Audubon, whose studies of bird life were an outstanding contribution to natural history. To a large extent the county was prairie with some timber along the streams and with some large groves in the south and east parts. It had been crossed by various trails made in the westward journey by the Mormons. The county has no large rivers; the largest, the Botna, flows to the south and about the center of the county. Into this river flow some smaller streams—Blue Grass near the present city of Audubon, David's creek near Exira

and the Troublesome stream which has its source in the western part of Guthrie county and flows to the south and then west through the southeast part of the county.

### SETTLERS CAME IN 1851

The first permanent settler was Nathaniel (Natty) Hamlin, who came with his family in 1851, and built the first log cabin near the Troublesome. This stream was so named because of the difficulty in crossing, it then having quite a volume of flowing water. Shortly following the time Hamlin came other families followed and for the most part settled in the southern and eastern part of the county. Because of the availability of water, logs and fuel, most of them settled in the timber and close to the streams.

Among the settlers who came shortly after Hamlin was Dr. Samuel Ballard, a physician, who later became prominent in state affairs. There also came two brothers, J. A. and I. P. (Ike) Hallock. Ballard sought to secure large tracts of land. At that time the county was unorganized and much of the land unsurveyed. The settlers staked out claims and organized in groups to protect such claims from claim jumpers and land speculators, and rules were established limiting the holding of any one claimant. Due to the fact that Ballard was a physician an exception was made in his case. Ike Hallock secured a large tract of land near the present town of Brayton and actively engaged in farming and stock raising and became one of the first cattle feeders of the county. He located his home east of Brayton and on the old stage route.

Most of the early settlers came from the south and the border states and many of them were southern sympathizers. A considerable group located near the Troublesome river and in time became known as the "Troublesome Gang". This group did little to develop the country and their principal activities seem to have been hard-drinking and horse racing. Soon stock, grain and other property became missing and there were indica-

tions that this was due to the gang, which committed various depredations and to such an extent that they terrorized the other settlers.

Many of the gang members were rough, reckless and unscrupulous—in fact, most of the settlers feared them, knowing that if their ill-will was aroused dire consequences would result, such as buildings burned, violence and forcible intimidations. As time went on the gang became bolder and finally a real menace to life and property. There exists evidence of the fact that the members of the gang had some connection with the James brothers of Missouri and that some were active in the holdup and robbery of a Rock Island passenger train near Adair, Iowa.

#### DEPREDATIONS EASILY TRACED

Settlers who lost stock feared to attempt recovery or prosecution, knowing that the gang would stop at nothing in order to secure revenge. Cattle belonging to Ike Hallock began to disappear. Suspicion pointed toward the Troublesome gang. Against the advice of friends, Hallock, a man of courage and determination, decided to take action. A search was made, some of his stock was found in the possession of some of the gang members, and events showed that some had been sold and gotten out of the country. This act on the part of Hallock enraged the gang and they freely and openly boasted that they would "get" Hallock. His friends became apprehensive for his safety. His brother, John A. Hallock, with three sons, left Audubon county a few years before and went to Colorado. One of the sons went to Wyoming and became a cowboy. He soon gained the reputation of being a dead shot—then considered quite a valuable acquisition in a territory where, according to the frontier code, "the law was at the belt." Ike, on the advice and solicitation of his friends and family, induced the cowboy nephew to return to Audubon county, ostensibly as a herdsman, but in reality as a bodyguard for his uncle. Sometime later the leader of the gang and two others traveling by sled, went to Exira and while there pro-



ceeded to terrorize its inhabitants, by hard drinking, threats and occasional discharge of firearms. They left the town in the gathering dusk, drunken and profane, with a waving of firearms. A group of citizens gathered on a sidewalk along the street. Suddenly the gang leader fired a shotgun in the direction of the group causing them to scatter for safety, and as they did there was the sharp report of a revolver. The driver of the sled let out a wild yell and fell backward into the sled. The gang leader yelled "You ————— you have killed —————; you will pay for this." The team took fright and ran away. The gang figured that the cowboy Hallock did the shooting. While he was said to have been there no one directly accused him of firing the fatal shot. This shooting simply intensified the activities of the gang and some of it's members openly avowed that they not only would get Ike, but also his nephew.

Not long thereafter the nephew was working in the home feed lot with a team putting corn in the feed bunks. Suddenly three riders, heavily armed, rode into the lot. The gang leader came first. They rode in yelling and shouting, "You ————— you killed —————; we are here to get you." Hallock ran around to the head of his team. He did not hesitate. He shot two from their horses and winged the third as he beat a hurried retreat. The two were instantly killed. The sheriff called a coroner's jury and that body heard the evidence. Its solemn verdict was "justifiable homicide."

#### WIOTA RESISTED GANG'S ATTACK

To some extent this affair lowered the prestige of the gang; but their local activities were not ended. Some of them became incensed over the actions of various citizens of the neighboring town of Wiota and it was decided to "shoot up the town" in approved gang style. Some of the gang imbibed considerable liquor and told of the plan and when it was to be carried out. The news was relayed to Wiota and the citizens made preparations to receive them. The road into the town passed by some corn cribs and the citizens armed with all available wea-

pons, awaited the coming. Soon members of the gang came in with horses running, firing their guns, and shouting profanity. They didn't get far beyond the corn cribs. Two of them were shot from their horses, stone dead, and several others were wounded and escaped. Again the coroner's jury verdict—"justifiable homicide".

The late Howard J. Clark, a prominent attorney in Des Moines, then lived with his parents just east of the old town of Oakfield. Just before his death in 1939 he told the writer of the Hallock shooting; also, that at Wiota. He said that the day following the shooting at Wiota the father of one of those killed drove by the Clark home. Howard and his father were down at the road. They knew the father. The dead son was in a rough box in his lumber wagon. Clark, Sr. remarked, "It must be hard to take a son home under these conditions", and the father remarked, as he drove on: "Well, mother and I will now know where he is at nights."

Following these two episodes other gang members saw the handwriting on the wall and moved to other places—some to Wyoming and Montana, and the Black Hills. Later reports came that many of them there died as they had lived—with their boots on.

Ike Hallock lived at Oakfield until he died, a highly respected citizen. His cowboy nephew went to Colorado and for many years worked for the D. & R. G. Ry. Co. He died a few years ago. A few years before his death the writer met him while visiting with a relative in Grimsen, Colorado. He talked freely of his early life in Audubon county, but said nothing as to the stirring event in Exira and later in the feed lot.

#### SON AND SON-IN-LAW HELPED HANG MAN

In the early eighties an atrocious and shocking crime was committed at the farm home of one Jellison, located a few miles east of the present city of Audubon. A middle-aged couple, Jellison and wife, lived there. One night three men broke into the farm home and forcibly

dragged Jellison from his bed, took him out into the yard and hanged him to a tree. His wife later gave the alarm and always claimed that she did not have any idea who had committed the dastardly deed. Some people questioned this, as there had been some dissension in the family between Jellison and a couple of his sons-in-law. Henry Herbert, then sheriff, was called. When the body of Jellison was cut down there was found clutched in his hand an overcoat button. Because of the family troubles suspicion was cast upon the sons-in-law, Smythe and Wilson, who lived in the vicinity of Coon Rapids.

Jellison was buried in an Audubon cemetery. At the funeral Sheriff Herbert noticed that one of the sons-in-law was wearing an overcoat with one button missing, and that the one clutched in the dead man's hand was similar to those remaining on the overcoat. He arrested them at that time. A son of the deceased was also arrested. The son confessed, claiming that Smythe and Wilson forced him to go with them to kill his father to avenge an offense which they claimed had been committed by the father upon the wife of Wilson. The three were indicted for the crime, the charge being that of murder. A local newspaper wrote up the affair in all its lurid details, with the son's confession; also that he later had repudiated it and that all were to stand trial. The attorneys for the defendants moved for a change of venue, claiming that in view of the widespread publicity and public clamor a fair trial could not be had in Audubon county. This was argued to the court with no immediate ruling.

Public interest was whipped to a fever heat—the nature of the crime, the confession, its repudiation, and the heavy expenses to be incurred by the county to prosecute. The judge to whom the motion for change of venue was submitted did not return but mailed an order that the case be tried in another county. A few nights later an organized group took possession of the town, posting guards at roads and other points and forcing citizens to remain indoors. Then they marched to the jail and



demanding of the sheriff, who lived upstairs, that he turn over the Jellison killers. He refused and attempted to spread the alarm by shooting from the upstairs window. Shots from the crowd forced him inside. The crowd, using a heavy wooden timber as a battering ram, crashed into the jail and Wilson and Smythe were shot and killed. The son, Cicero Jellison, was taken to a small park bandstand and there hanged. The next morning citizens found Smythe and Wilson hanging to the jail fence, with Cicero Jellison hanging in the bandstand.

The morning following the father of the writer was working on a road culvert near the home. While doing so two men, neighbors, riding horseback, came from the direction of Audubon. They stopped and one of them addressing father, said: "Sam, those Jellison killers got a change of venue." Father inquired, "Where to". The rider clicked to his horse and answered "to hell" and rode on. The bridge work ceased; father and the hired man at once took the team and drove to town. That was the writer's first experience with legal phraseology, "change of venue."

#### POLK CITY TRAGEDY AVENGED

Another incident happened about the same time and like the other two, had a tragic ending. Sometime in the early eighties two men in an attempted holdup shot a merchant in Polk City, Iowa, a small place northwest of Des Moines. After the shooting they fled by horseback to the west. The alarm was given and roads were guarded. A day or two later a farmer living northeast of Audubon, Sam McGill, by name, was in his barn currying his horses when two men came into the barn and demanded a team of horses. Both were armed and McGill made no resistance. They took his team and started southwest and passed the town of Audubon on the north and were observed hurrying their horses along.

Later in the afternoon a contractor named Hunter was building a highway bridge near Elkhorn, Shelby county,

just over the line from Audubon county. Two horsemen driving hard some jaded horses approached and seeing the bridge being built forced the horses into the stream. One horse was so badly exhausted that it went down and could not get up. Its rider ordered the other to halt and both got on the other horse, and rode westward. The bridge workers noted that one of the men was heavily armed. Thinking that something was wrong the alarm was given. About that time word was received to be on the lookout for the pair. The two rode into an adjacent wooded area known as "Buck's Grove." The next morning various groups entered the grove. One of these, a man from Marne, Iowa, was shot in the head and killed, while a man named Hallock from Oakfield was seriously injured. It was deemed safer to guard the surrounding area and wait for more men. Farmers from all of the country about armed themselves and went and joined in the man hunt.

About noon of the next day two men from Atlantic were waiting along a small wooded stream when they saw one of the hunted pair come down the other side carrying in his hand a large revolver. The Atlantic men were armed with guns loaded with buckshot. Both fired and the man with the revolver went down, mortally injured. A crowd gathered and carried him to some high ground and placed him in a spring wagon. A physician gave him some attention until a cry went up that the other fellow had been caught. All rushed in that direction and the owner of the vehicle pushed the wounded man out and drove away. At the edge of the woods a crowd of approximately 500 nearly all armed, had the prisoner. He was a young man, barely of age and unarmed. A rope was placed about his neck and the whole aggregation started to run to a large iron girder bridge about an eighth of a mile away. The crowd stopped at the bridge with the purpose of hanging the prisoner. He was asked who he was and he said that he was from Ohio and that he had a mother living there. He said that the older man had led him into the commission of

crimes. When he made that statement a howl of derision went up with cries of "shoot him—hang him." There were a number of officers in the crowd, but they could do little. The prisoner was asked if there was anything he wanted. He said he wanted something to eat and that he hadn't eaten for two days. The crowd finally agreed to get him some food and someone was sent to a neighboring house and soon returned with some milk, cheese and crackers. Years later, one of the crowd told the writer that the prisoner seemed the coolest man there and ate the lunch like a famished man. A lawyer from Audubon, John M. Griggs, asked if he wanted to write to his mother and he answered that he did and wrote her, telling his situation and expressing his sorrow for the grief he had caused her.

#### THE SHERIFF'S ADROITNESS

About that time Sheriff Rainbow of Shelby county, an old plainsman, began to talk to the crowd about this youth and that they should let the law take its course. The friends of the deceased Marne man were vociferous and violent in demands that the prisoner be hanged. Finally, Rainbow drove a buggy upon the bridge and placed the prisoner in it and then called for the crowd to vote as to whether a hanging should take place or the prisoner be given to the custody of the law. The bridge was on an east and west road, the west toward Harlan, the county seat of Shelby county. Rainbow asked that those who wanted hanging gather at the east end of the bridge, the others, to the west. When they were so divided, Rainbow stood in the rear end of the vehicle behind the prisoner. He called to the driver to drive to the west, and at the same time pulled out two six shooters and announced that he would shoot anyone who tried to stop him. None did, as they knew Rainbow was a man of courage and with iron nerve. He took the prisoner to Harlan and placed him in the county jail. A few nights later a mob stormed the jail, took the prisoner out and hanged him and then riddled his

body with bullets. It was believed that the friends of the Marne man were the prime movers of the mob.

Attorney Griggs, some forty years later, in speaking of the event, told the writer that he never sent the note to the mother; as it would only add to her grief. It was reported that they never knew the name of the other criminal and that his body was sent to a medical college.

While over two-thirds of a century has gone, still we hear some oldtimers speak of the "Troublesome Gang", the "Jellison lynching", and the man hunt at "Buck's Grove".

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### GOVERNMENT UNDER CONSTITUTION

Gov. Stephen Hempstead: I may be permitted to refer to the policy of government, under which we have increased in population and wealth, unsurpassed in the history and settlement of western states, and it must be conceded, that for the high position which we now occupy, as a sovereign state of the American republic, that we are principally indebted to the constitution and laws for that prosperity.

Of the constitution of this state, it may with justice be said, that it is republican in its character, and designed to protect the people against abuse and evils which have crept into the government of other and older states. It prohibits any association or corporation from exercising the privilege of creating paper to circulate as money; it declares that corporations shall not be established by special laws, except for political or municipal purposes; and for all others, that general laws shall be passed for their organization, reserving to every one the privilege of forming companies for the transaction of all lawful business, and limiting state indebtedness in such a manner as to prevent great loss or repudiation. These restrictions, it is believed, have done much to build up this state, and to assure its citizens that they are not to be oppressed by monopolies, bankruptcy, or extraordinary taxation.—Message to Fifth General Assembly of Iowa, December 8, 1854.







## THE BENTON COUNTY COURTHOUSE

Cornerstone Laid October 14, 1905

Construction Completed in 1906

Equipped and Occupied in 1907

## THE BENCH, BAR AND COURTS IN BENTON COUNTY

By J. F. TRAER

When one attempts to write the early history of Iowa he is badly handicapped. There are few old newspaper files, because there were few newspapers and records are fragmentary or non-existent. Traditions are abundant, but should be sifted with care. Old settlers are prone to boast, and with age the imagination becomes more vivid. Few officers are good record keepers. They are elected, not for their qualifications, because they are likable fellows, they were soldiers, they need the job, etc. Politics is a game that is played more for the joy of winning than for the good of the people.

Records accumulate and filing facilities are poor. They get piled up in corners or cupboards without system. Years ago Benton county's records overflowed the courthouse. A large vault was built west of the courthouse and connected by a covered passageway or hall. In this the records of several offices were mingled. Searchers combed them over for what they wanted and were not careful to put things back where they found them. At one time the supervisors hired a man to sort and classify this material. He spent the summer in that vault. Then the process was repeated. After the present courthouse was built things were better for awhile. But now again we are crowded. It is a safe bet that the present officers know nothing about the probate court or the county court. Probably most of the lawyers know as little.

Benton county was organized in 1846 and was attached to Linn county for judicial purposes, becoming a part of the Fourth district. Commissioners were appointed to select a county seat and they selected the NE¼ of Sec. 21-85-10, which now lies within the limits of Vinton. Just why they made this selection is not known. It was not materially different from any other spot of ground,

and it did have some disadvantages. It did not abut the river, and at that time people expected to travel the river. It had no water, a prime necessity. It was still government land, but had been selected as a part of the 500,000 acre grant for school purposes. That selection was not approved until January 11, 1851. So far as can be found Benton county never had title to any part of it. Did the county build a courthouse on land they did not own?

It is said that a town named Northport was platted, but the plat was never recorded. Later the county commissioners (supervisors) platted a town which they called Vinton. This is merely a map consisting of nine blocks with a public square in the center, but you cannot tell where this plat was situated. The records show that court was held in the courthouse in Vinton in 1848. Did the fact that two of the commissioners afterward acquired title to this quarter have anything to do with this selection? It is all very confusing and smells.

However, this location was unsatisfactory and an election for a relocation was held in April, 1849. The vote was a tie. The contest was between a location which is now the middle portion of the business section of Vinton and a site about three miles northeast, now in the middle of a farm.

#### EARLY COURTHOUSES LOCATED

The second election resulted in the selection of the present site. That fall James Leverich platted a town on this site which he called Fremont. The government would not accept that name for the postoffice, as they already had one town of Fremont in the state. They named the postoffice Vinton. No cause for this name is found in the postal records, but tradition says that it was so named in honor of a congressman from Ohio. Later the general assembly changed the name of Fremont to Vinton.

There is nothing but tradition as to the courthouse on Section 21. An early history of the county



says that it was ordered built in Northport. It was to be of hewed logs, 20x24 and two stories. When Fremont was platted the present site of the courthouse was designated as "Public Square". There was no dedication for courthouse purposes, but the county took possession and built thereon. At the time of the erection of the present building this condition was noted, and the authorities thought it necessary to bring an action to quiet the title in the county.

The first courthouse on this site was a two-story frame structure and was said to have been situated in the southeast corner of the square. This must have been built in the very early fifties. It burned in January, 1853. The clerk and the recorder were sleeping in the building and saved the records by throwing them out the windows. The stairway was outside and was enveloped in flames. The officers came down a plank put up by the bystanders.

The next building was a two-story brick in the center of the square. It was about 40x60 and had the conventional cupola. By 1870 this building was badly outgrown and this was remedied by building a two-story addition across the front. This furnished four additional large rooms. A large vault was built to the west and joined to the main building.

With this we were able to get along until about the turn of the century. Three times was the proposition to issue bonds and build submitted and each time it was defeated. The people just could not see the big debt and interest payments for twenty years. A petition to relocate the county seat was circulated, but nothing came of that. It was looked upon as an effort to shake down Vinton for a large donation. Then some fertile-minded fellow suggested that we did not need to borrow money, that we could levy a tax and pay for the house as it was built. It was figured out that a five-mill levy for two years would do the job. Thus each taxpayer could know in advance just what it would cost him and just when he would have to pay it. The individual share was not

enough to scare many. This proposition was submitted and easily carried. And now this house is nearly outgrown. The name of this benefactor is not known but he deserves a monument.

### THE COURTS ARE DESIGNATED

We have told about courthouses; now let us tell about courts.

The constitution provides that the judicial power shall be vested in the supreme court, the district court and such other and inferior courts as the general assembly may provide.

In the beginning we were put in the Fourth district. Then about 1858 we were moved into the Eighth district along with Linn, Johnson, Tama, Jones and other counties. In 1886 the districts were readjusted and Benton and Tama were made the Seventeenth district and were allotted one judge. Later, about 1896, Marshall county was put in the district and we were given an additional judge.

Let us take the inferior courts first. The justice court has always been with us, and frequently it is the last step down for some elderly man, not necessarily a lawyer. In the early days it had much business of a trifling nature, but lawyers frequently spent much time there and for small compensation. It is probable that they seldom received as much as \$10 for a days work. Its civil business has dwindled to almost nothing, but it handles many cases of petty misdemeanors.

Many of these justices were quaint characters and many tales are told of their decisions. Old Squire Kirkpatrick had a deep and genuine hatred for the supreme court and its decisions. He said one day that if they would take all the books that the lawyers called authorities and burn them the world would be better off. He decided things as he thought they should be, not necessarily what the books said. His decision in the famous "watermelon case" is a classic in Vinton. It was like this. Old man Hahn had Frank Thayer arrested for

stealing a melon from him on the fairgrounds. Frank did not have a high standing in the community and he could not get a lawyer to defend him. He asked one of his mates to go along and help. As a matter of fact Frank had not stolen the melon. Another fellow had stolen it and slipped it to Frank and he made the "get away". They badgered the witnesses and browbeat the squire until they ran out of wind and sat down to await his decision. In early life the squire had an unsuccessful encounter with a dentist and the dentist had gotten quite a part of his jaw bone, so that his mouth was well to one side rather than in front and he creaked rather than spoke. He chewed slippery elm instead of tobacco. He chewed and pondered. Finally he said, "Well, Frank, there aint a bit of doubt in my mind that you got that melon, but they have not proved it on you and I am going to let you go".

The probate court was what its name indicated. The county court followed the probate court. It was established by the code of 1851. The judge was really the court and frequently he was very much of a dictator. It had supervision of town plats and the incorporation of towns and the vacation of plats; it could issue licenses for internal improvements, as dams, toll bridges, canals, etc; it had supervision of the poorhouse and poor relief; the care of the insane; bastardy proceedings; lost goods; it could issue marriage licenses; it had charge of all probate matters and guardianships.

The clerk of the district court was the clerk of the county court, but was required to keep separate records. The judge also performed many of the duties of the county auditor. This court was abolished in 1869. G. M. Gilchrist was the last county judge and became the first county auditor. This is where he really acquired his title, although he was afterward a district judge.

#### CIRCUIT COURTS UNPOPULAR

By 1870 the district court was well nigh swamped with business, and the then state of the constitution would

not admit of the creation of additional districts fast enough to take care of the additional business. The circuit court was established as an inferior court. Each district was divided into two circuits and each circuit had a judge. It had the probate jurisdiction and appellate jurisdiction on appeals from justice courts. It had no criminal jurisdiction save on appeals from justice courts. Cases might be transferred to or from the district court by consent of parties. Then there was a general term session when the two circuit judges sat with the district judge to hear appeals from the circuit court. From such session there was still the appeal to the supreme court. This arrangement proved unpopular and the provision was repealed at the next session of the assembly and the right of appeal direct to the supreme court was restored.

There were but two terms of the circuit court per year. At that time the jury came the first week of the term and it tried July cases for three weeks. The fourth week was spent in finishing up and the court then adjourned. It was a long time between terms and much different from the present custom of prolonging the term until the next is ready to begin.

In 1886 the constitution was amended to permit the assembly to establish additional districts at will and the circuit was abolished. At this time the office of district attorney was abolished and the county attorney system was established.

Five men served as judges of the circuit court. First was William E. Miller of Iowa City. He resigned to go on the supreme bench. Next was G. R. Struble of Toledo. He served a few months and resigned. Third was William J. Haddock of Iowa City. He also served only one year. Next came John McKean of Anamosa. He served from 1872 until 1881. The last was Christian Hedges of Marengo. He served from 1882 until the court was abolished in 1886.



## THE DISTRICT COURT JUDICIARY

And last but not least the personnel of the district judges. The first was James P. Carleton of Iowa City. He was judge when the county was established.

The first term of court was held in 1847, at the home of Tom Way, about three miles northeast of Vinton. Just why it was held there is not apparent, for that was not the county seat. Routine business was transacted. William Smyth of Marion was admitted to practice. He was afterward to be a judge of this court, to command a regiment in the Civil war and to be a member of congress.

The acting prosecuting attorney applied for admission, but they "plucked" him and removed him from office.

Later the record shows that court was held in the courthouse in Vinton. This must have been the courthouse on Section 21.

The third was Isaac Cook of Marion who served during 1857-8.

Next came William E. Miller of Iowa City who served in 1859-60-61. Judge Miller compiled an annotated code of Iowa which was in use in the eighties.

Fifth was Norman W. Isbell of Marion who served in 1862-4-5. Judge Isbell had previously served on the supreme court in 1855-6.

Sixth was Charles H. Conklin of Vinton who served during 1864-5. He found that he could not live on the salary and resigned. Others found that out also.

The seventh was N. M. Hubbard of Cedar Rapids who served in 1865-6. He resigned to become attorney for the Northwestern railroad. He was famous throughout Iowa as a railroad attorney and political dictator.

The eighth judge was James H. Rothrock of Tipton, later of Cedar Rapids. He served from 1866 until 1876 when he went on the supreme bench.

John Shane of Vinton was the ninth judge, appointed to the Rothrock vacancy. He was elected for a full term and had been nominated for another term in 1882. He suffered a stroke that summer and was compelled to resign the nomination. He was incapacitated but lived until 1899.

J. D. Giffin of Marion was elected in 1882 and served four years. The districts were readjusted in 1886 and the Benton-Tama district was formed.

The first judge of the Benton-Tama district was L. G. Kinne of Toledo. He was elected in 1886 and served until 1889, when he resigned and went to Des Moines to edit the *Des Moines Leader*, the organ of Democracy in Iowa. G. M. Gilchrist of Vinton was appointed to the vacancy and served until the next election. In the meantime Judge Kinne's newspaper venture had proved unsatisfactory and he again became a candidate for the judgeship. He defeated Judge Gilchrist and was later re-elected for a full term, and in 1891 he was elected to the supreme bench.

John R. Caldwell of Toledo was appointed to the vacancy and later elected for the short term.

In 1896 G. W. Burnham of Vinton was elected and served twelve years.

#### JUDGES OF PRESENT DISTRICT

In 1896 Marshall County was added to the district and we were given a second judge. Obed Caswell of Marshalltown was appointed and he served ten years.

In 1906 John M. Parker of Marshalltown was elected to succeed Judge Caswell and he served four years. At the same election C. B. Bradshaw of Tama defeated Judge Burnham and he served eight years.

In 1910 Clarence Nichols of Vinton was elected and served until 1914, when he resigned to re-enter practice. B. F. Cummings of Marshalltown was appointed to the vacancy and at the fall election was elected to the full

term. He served until 1930. Also in 1914 James W. Willett of Tama was elected and served until 1926.

In 1926 Clarence Nichols of Vinton was again elected and served until 1933, when he resigned. C. B. Stiger of Toledo was appointed to this vacancy and he served until 1936 when he went on the supreme bench. C. E. Walters of Tama was appointed to the vacancy and served until the election when he was defeated by L. J. Kirkland of Vinton. Judge Kirkland resigned in 1942 and B. F. Thomas of Traer was appointed and is still serving.

In 1930 B. O. Tankersley of Marshalltown was elected and is still serving.

Prior to 1886 we had a district attorney who conducted all criminal prosecutions. Among these can be remembered I. M. Preston, Milo P. Smith and J. H. Preston of Cedar Rapids and W. G. Thompson of Marion. All were able lawyers and vigorous prosecutors. Thompson, Smith and J. H. Preston were Civil war soldiers.

The county attorney's office was generally passed to some of the younger members and nearly all of our members served when they were young.

### LYNCHINGS AND WHIPPINGS

Settlers came before the courts and it was necessary for them to protect themselves and settle their differences. Many settled them fist and skull. There are tales of whipping, tar and feathers, banishment, etc. Probably some of these are true. Probably some of the victims got what was coming to them or maybe only a part of it.

The most famous, or notorious, case of lynch law was the case of John Mason. This occurred in the summer of 1878. Mason was said to be a man of wholly bad character and was unwelcome in Benton township. In fact he had been urgently invited to stay away. Nevertheless he drove into that township one Sunday morning in June. At one point he saw something which aroused his suspicions. He got out to investigate and was shot

down, but not killed. He was taken to a farm house and put in bed. While two men watched, another went for a doctor. As they waited, a band of masked men came into the room and fired a volley into Mason. That did kill him. The coroner was notified and the body brought to Vinton and laid on a bench in the courthouse yard. He was a gruesome sight. One small boy returning from the swimming hole viewed the remains and he has not forgotten the sight.

Eight men were indicted for murder and were tried the next spring. The trial lasted a number of days and three were convicted of manslaughter and were sentenced to three, six and nine months in the penitentiary. None of them served his sentence and all were afterward pardoned. While it was conceded that their acts were irregular, it was felt that they had done the community a service.

Another case of lynching, only attempted, was the Big Grove "White Cap" case. A young man named Bean had gotten into difficulty with an old lady and gave her a pretty thorough beating. However, he knew that he had been in a fight. He was bound over to the grand jury, but some of the hotheads thought that the law would be too slow and organized a party to call on Bean and reason with him. Just what they intended to do was never apparent. One old pacifist was invited to go along but declined with thanks. He got word to Bean to expect company. Bean and his brother took some iron rods off the corn plow and went to bed with them. Their father lay down on the parlor floor with a pitchfork at hand. The hotheads evidently knew the house. The main door opened at the foot of the stairs. They kicked in the door and swarmed up the stairs. The boys laid about them with their rods and the old man attacked the rear with his fork. In no time at all there was an old fashioned "hell of a time" in progress. One of the regulators drew a revolver and fired. He hit one of his mates in the arm. The crowd was beaten back and left. It is not remembered that they left any wounds



on the young men. The old man insisted that he had jabbed a man in the neck with his fork, but no man could be found with a wound in his neck. It was a three-tined fork with the middle tine broken out, so we must assume that he merely straddled his neck. The wounded man had to come to town for medical attention and the sheriff picked him up at once. Then he went out and arrested most of the young men in the neighborhood and some that had ceased to be young. The suspects immediately employed counsel and were given good advice. "Keep your mouths shut". Always good advice. They did not talk then or afterward. Even fifty years later they would not talk. A number were indicted and after argument plead guilty to a charge of riot. They were given fines running up to \$200 and a day in jail. A wholly inadequate punishment. The young man was fined \$250 for beating the old lady.

#### THE NOVAK MURDER CASE

Of all murder cases tried in this county probably the Novak case attracted the most attention. Briefly the facts were these. Novak was running a large store at Walford. He was doing a big business and was supposedly prosperous; but assets show, while liabilities are not so plain. He was heavily insured both as to property and life. He was accustomed to sleep in the store. One night in February, 1897, the store burned and the remains of a man were found in the ruins. For a while this was presumed to be Novak, but another man was missing and he had been with Novak the night before. It was determined that the remains were those of Ed Murray. Novak had disappeared and search failed to find him.

But the insurance companies had not forgotten. Late in August a detective landed in Seattle with Novak in custody. He had traced him to the British Northwest Territory, had extradited him and got back to the United States without publicity. Novak was placed in the jail and was indicted for murder. M. J. Tobin was county

attorney at that time and was assisted by Louis Boies of Waterloo. Tom Milner of Belle Plaine and J. J. Ney of Iowa City defended. The trial lasted a number of days and was a hard fought battle. The jury brought in a verdict of second degree murder and recommended the minimum punishment. That was none of their business. Judge Burnham overruled the motion for a new trial and sentenced Novak to life imprisonment. Some ten years later Governor Cummins pardoned him. He died very shortly after that. There have been a number of murder trials in the county most of them resulting in acquittals. Never has a man been sentenced to death in this county.

There have been many civil cases, but few of outstanding interest. The famous "Jones County Calf Case" was tried here on change of venue.

Quite a few important cases were brought from Tama county. Notably was a malpractice suit brought against a doctor in Traer. In this case the plaintiff's lawyers made the mistake of allowing on the jury a man who had two sons who were physicians. Of course that jury disagreed.

Another case from Tama county was that of Mike Casey for damages for injuries received when a bridge broke down with Casey crossing it. All the big lights of the Tama bar were present, as well as Colonel Clark of Cedar Rapids, who assisted the county attorney in the defense. On direct examination Mr. Casey testified that immediately after the accident his feet got as cold as ice and had been getting colder ever since. When the colonel took him on cross examination he thought he was going to make a monkey of Mike. He did not. The examination was about like this.

Colonel Clark: Mr. Casey?

Casey: Yis, Sorr.

Clark: You say that immediately after this accident your feet got as cold as ice?

Casey: Yis, Sorr.

Clark: And that they have been getting colder ever since?

Casey: Yis, Sorr.

Clark: Mr. Casey, will you tell the jury how cold they are now?

Casey: Shure, they're cowled enough, God knows.

And even the judge laughed and the bailiff only made a token effort at restoring order.

#### FEWER JURY TRIALS

The trial of jury cases has largely gone out of fashion in this county. Frequently we have a term without jury trial. Evidently people go to lawyers for counsel rather than for conflict. And if they only knew it they can better afford to pay a lawyer a big fee for keeping them out of trouble rather than taking them through it.

The standing of the Benton county bar has been high. We have never disbarred a member, but sometimes have welcomed a removal from the county and a few have been tactfully advised to surrender their certificates.

James Wood, one of the earlier members spent most of his life as a justice of the peace. He compiled a form book for the use of justices and constables which with some revisions is still in use.

The older members always spoke of Charles H. Conklin as the most brilliant of them, but they did not cite any famous cases tried by him. He wrote a book, "Iowa Justice", but no one now possesses a copy of it.

In his time, 1872-1913, J. D. Nichols, Sr., was one of the outstanding lawyers of Benton county. He grew up in the time when men largely settled their differences with their fists. To him a lawsuit was a fight with no holds barred. He took his client's trouble as seriously as did the client. He could honestly get wrought up to tears. (Dave Voris spoke bitterly of Nich's "crocodile tears.") He was somewhat boastful and liked to try

his cases to the public as well as to the jury. He was given to telling what he would do to his opponent in the trial. Sometimes this backfired. Generally he was on one side or the other of all the big cases. He was very successful, but became incapacitated and lived a long time in retirement. His son, Clarence Nichols, was for many years a very capable lawyer and enjoyed a large practice. His grandson, J. D. Nichols, Jr., gave promise of a successful career, but died early.

M. J. Tobin was a trial lawyer of note and enjoyed a good fight. He had many of them and was very successful.

It must not be assumed that because only a few are mentioned by name that they are the only ones who did anything. Our lawyers were of the general run of Americans; some were very able; some less so, and some not at all. In an article like this it is impossible to mention all. They served their clients. They served their country in civil life and in the armed forces.

In the Civil war were W. C. Gaston, John Shane, G. M. Gilchrist, John D. King, George W. Sells, H. E. Warner, S. P. Vanatta, Milton Worth, Thomas Drummond, P. H. Lynch, B. R. Sherman, Alfred Haines, F. G. Clark, and Jacob Wetz. Drummond was killed and Worth died in the service.

In the Spanish-American war were Guy Kellogg and George E. Knapp. Kellogg died in the service.

In the first World war were J. H. Milroy, Hamilton Tobin, John W. Tobin, Louis P. Tobin, Karl W. Fischer, J. D. Nichols, Jr., Charles E. Hughes and V. D. Vifquain.

In the second World war were Karl W. Fischer, John F. Scott, Robert W. Scott, M. H. Bordewick, Don Boddicker, Frank Baird, Wallace F. Snyder, Harold Swales, and Keith Mossman. Snyder was killed.

The Benton County Bar Association was organized in 1928 and numbers in its membership nearly all of the practicing lawyers. They meet for discussion and join



with Tama and Marshall counties in legal institutes. At this time M. H. Bordewick is president and Keith Mossman is secretary.

One of the projects of our association has been to acquire the portraits of all of the judges who have served in this county. In this we have been successful in acquiring all of these except that of James P. Carleton, the first judge. These portraits will hang in the judges rooms in the courthouse.

Among those who practiced in the county for a long time may be mentioned W. C. Connell, John Shane, John McCartney, J. C. Traer, J. D. Nichols, Sr., G. W. Burnham, W. P. Whipple, Clarence Nichols, L. J. Kirkland, Hugh Mossman, Charles F. Stookey, Charles I. Vail, P. H. Lynch, J. J. Mosnat, George C. Scrimgeour, W. C. Scrimgeour, M. J. Tobin, maybe others.

A roster of all the men who have been admitted or have practiced in the county is in preparation and will be filed in the county clerk's office and in the library. It will contain over 160 names.

The present members of the bar are L. J. Kirkland, J. W. Tobin, J. H. Milroy, J. F. Traer, Karl W. Fischer, John F. Scott, Robert W. Scott, Frank Baird, Don Boddicker, Keith Mossman, Hugh Mossman, M. H. Bordewick, Edward F. O'Conner, all of Vinton and V. D. Vifquain, Charles E. Hughes, H. R. Mosnat, C. E. Hutchens and Harold Swales of Belle Plaine. Charles F. Stookey, a long-time resident of Shellsburg, is living in retirement in Bettendorf, Iowa.

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#### FOUR GREAT BENEFITS TO MANKIND

The assembling of an alphabet, the invention of the printing press, the construction of the wheel and the discovery of fire, constituted four great primary benefits to mankind that have continued to bless the human race even to this day.

## TELEGRAPHY FIRST USED HERE IN 1862

By HENRY T. RICE

In reviewing Des Moines' rich heritage of progress and achievements, one of the major milestones in local history was the opening of the first telegraph office here in 1862, it was pointed out by R. S. Carpenter, local Western Union superintendent.

The telegraph has played an all-important part in the development of this community for 88 years.

In the early days of this city the "lightning wires," as the telegraph lines were called, were the only means of annihilating time and the space separating communities spread across the nation. The eye-shaded telegraph operator of that era, huddled over his Morse key tapping out messages, is history now, but still among the boyhood recollections of older people.

The second and third decades of this century saw the rise of printing telegraphy, in which machines with typewriter-like keyboards were used to send telegrams and the messages arrived automatically in printed form. Since there were not enough wires to connect all places directly with all others, telegrams were transmitted from the point of origin to a relay city. There they were gummed to telegram blanks, sorted by routing clerks and carried by girls to operators. The messages were then retyped on telegraph machines to transmit them on, usually to other relay points, before they reached their destinations.

Now a new ultra modern era has arrived and all of these time-consuming steps have been eliminated by a nation-wide, high-speed switching system. In the new system each telegram is typed once at the point of origin, and then automatically flashes to its destination with almost magical speed and efficiency.

Des Moines has benefited greatly from Western Union's \$80,000,000 mechanization and plant improvement program. The local telegraph office is connected directly

with a huge "electrical brain" in Minneapolis, the clearing house for all telegrams to and from this area, and one of a nationwide network of high speed switching centers. The big selective switching center there flashes telegrams automatically and with great speed between all parts of the country and Western Union offices in Iowa, Minnesota, Wisconsin, North Dakota and South Dakota.

### A MAZE OF ELECTRICAL APPARATUS

The ultra modern center, important in providing our food, clothing and other needs, is comprised of aisle after aisle of equipment and a maze of electrical apparatus. It covers thousands of feet of floor space and includes more than 3,000 miles of wires and over a million soldered wire connections.

An operator transmitting a message from the local Western Union office types two "call letters" at the beginning of each telegram. These call letters cause the electrical brain at the switching center in Minneapolis to select the proper circuit and automatically flash the telegram to its destination.

In the case of a telegram addressed to Cleveland, Ohio, for example, the local operator here will type the letters "CL", representing the destination on a typewriter-like machine. These letters flash to the switching center at Minneapolis where the electrical brain automatically connects the telegram with the Cleveland, Ohio, circuit and speeds it to that city where it is received in printed form ready for delivery.

To provide the many circuits needed between all centers in the nationwide switching system, more than 1,500,000 miles of carrier circuits have been placed in operation. Each carrier system is capable of carrying 288 messages simultaneously over a pair of wires. Additional carrier systems are now being completed between cities throughout the country.

To meet the heavy volume communication needs of the future, Western Union also has built a microwave

radio beam telegraph system over which more than 2,000 telegrams may be sent simultaneously in both directions. In this system radio towers 30 to 50 miles apart have replaced the familiar telegraph poles and wires. Impervious to snow, ice and other natural hazards, the radio beam system is providing telegraph facilities of great reliability.

An important problem facing the telegraph industry today is the burden of the Federal tax of 25 per cent on telegraph users. This wartime tax was levied to discourage the use of the telegraph at a time when it was necessary to restrict the flow of unessential traffic in favor of vital war messages. In 1948 this destructive tax amounted to \$40,000,000—a figure closely approaching the government subsidy of air mail, one of Western Union's chief competitors. Vigorous efforts are being made to effect the elimination of this tax, which is higher than that for night clubs, theaters, furs and cosmetics.

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### PRESERVATION OF HISTORIC SITES

The Eighty-First congress passed and the president signed, a bill creating a National Trust for Historic Preservation in the United States. The primary purpose of the National Trust will be to facilitate public participation in the preservation of sites, buildings, and objects of national significance or interest. It will encourage preservation on every level, national, regional, state, and local. It is also empowered to receive and administer for the public benefit buildings and sites worthy of permanent preservation, which may be presented to it.

The National Trust will be administered under the general direction of a board of trustees composed of the attorney general of the United States, the secretary of the interior, the director of the National Gallery of Art, and six other American citizens chosen by the executive board of the National Council for Historic Sites and Buildings.



## THE ANTIQUE AND THE MODERN

By E. A. JOHNSON<sup>1</sup>

We are living in a fast age, literally as well as figuratively. Two and a half generations ago the most rapid means of travel was by railroad train, and forty miles per hour was considered a dangerous rate of speed, yet a few months ago I rode on the Burlington from Ottumwa to Chicago, a distance of 280 miles, in 252 minutes including two or three stops. By airplane the trip is regularly made in 100 minutes, and it is possible to cover the distance in less than 60 minutes. From New York City to San Francisco, a distance of 3,000 miles, has been made between the rising and setting of the sun in a single day.

A little more than half a century ago the speediest means of travel except by train, was only with a good driving team, and sixty miles in ten or twelve hours was exceptional. In horse racing circles the record for one mile in harness was about two and a quarter minutes, slightly less under saddle, but the average man was in no wise benefited, as he owned no race horse, nor would he have had occasion to stop at the mile end.

Until I was about fifteen years old, the only road vehicle on the farm was a heavy two-horse farm wagon. Had my mother a dozen dozen eggs and a dozen pounds of her good home-made butter for the market four miles distant, which manifestly could not be carried horse back, it was carried in the wagon, an hour's time being consumed each way in making the round trip. When my father had business at the county seat town 18 miles distant, of such nature requiring a vehicle, it meant a daylight start in the morning, and his return was not expected until by starlight in the evening. Anticipating your amused, derisive, smiling enquiry if I regarded this as an acceptable and satisfactory way of life, I would say that on his return home, even before beginning his

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<sup>1</sup>Mr. Johnson engaged in banking at Bussey, Marion county, Iowa, for many years prior to his retirement.

evening meal, he would not first insist on scanning the columns of the evening paper to ascertain who of his friends or neighbors, during his absence had been run over and killed, or maimed for life, by a drunken auto driver going 60 or 70 miles an hour on the county highway. Thus, you see, even the moderate pace in that day had its compensations. With our friends and neighbors we were all sailing the sea of life in the same slow boat and I am quite sure enjoyed as much pleasure and far more contentment than is true of today.

### PILGRIMAGES TO PARENTAL HOME

During our seven years residence in Warren county, our farm home was about 20 miles west of the city of Knoxville, and my paternal grandfather's home about the same distance southeast of that city. During those years it was the custom of my parents to visit each year for a week or more at the parental home. I well remember two or three of the occasions. Preparation for these annual pilgrimages were provided for with as much care as one now would make for a trip to Europe. These visits were made in the winter in order to not interfere with the farm work in season.

Preceding the day of starting, in the bottom of the wagon box would be placed a lot of hay or straw overspread with blankets. Then long before daybreak the following morning there would be placed in the hot oven some good sized flat stones and when sufficiently heated these would be wrapped in heavy blankets and placed in the wagon box. When all was ready we children would be loaded in the wagon in close proximity and covered heads and heels with other blankets or comforters. Father and mother were seated on a wide board placed across the box well to the front, and just as the first crimson streaks were appearing in the eastern sky, the journey begun.

If no unlooked for intereference was experienced we would arrive in Knoxville about noon. Stopping somewhere on the square, parents and children would descend

from our coach and mother, lunch box in hand, would herd us into some friendly store, while father unhitched and tied the team at the rear of the wagon to feed on the ample supply of oats provided for the purpose. When he arrived at the store we would eat our prepared lunch, absorb all the heat possible from the kind merchant's old-fashioned hot coal heater, and about one o'clock would resume our journey. Then on and on we would go, and just as the sun was sinking below the western horizon we would arrive, cold, tired, and children invariably hungry.

After a week or ten days, all the while regaling on fine food our good grandmother so well knew how to prepare, regretfully and with loud lamentations by the juvenile members of the family, we retraced the route over which we had so recently driven. In due course reached our home where for many days the sole topic of conversation by the junior members of the household was of the good times had and planning for the next trip.

#### FORDING SWOLLEN STREAMS

A slight variation of the fixed program on one of these annual pilgrimages was when we went via Gosport for a few days' visit with father's sister and family who lived near that village. I cannot now recall whether this trip was in early spring or during an unusually warm spell in midwinter, but the well-remembered fact is that when we started on the last lap of our journey several of the then unbridged rivulets were running almost full of water. In fact, two or three appeared so threatening that father, before venturing to drive across, unhitched the team and on one of the horses rode into and across to determine the depth of the water.

All were safely crossed until within a few miles of our destination when we reached the big Cedar, that to me looked very like the Pacific ocean did last summer. Interrogated farmers living near by warned that it was dangerous, though if a certain invisible line be followed they thought we might safely cross. Again, father un-

hitched the team, and on one of the horses rode into and across the swollen stream, though the water was high midside the horse. Returning he and mother counselled what course to pursue. It was growing late in the afternoon, was a long and likewise dangerous trek back to sister's home. So, with a few kind neighbors standing by to help in case of trouble very carefully he drove into the stream. Though water ran into the wagon box and wet the blankets in the wagon, the stream was crossed with no greater mishap. Very soon we arrived at grandfather's home and with change to dry clothing and the good hot fire we were soon dried and ready for the bountiful dinner that awaited us.

When I was about fifteen years old father in a trade secured a second-hand spring wagon. This was a two seated affair constructed of much lighter material than the regulation farm wagon. Under the body were three springs, one at the front and two at the rear, which added greatly to the ease of riding and, being of much lighter draft, better time could be made on the road. Soon much better finished vehicles, and of improved design, were on the market, and at about the same time one- and two-seated open and top carriages became available; also, because of the low cost, the two-wheel, two-passenger carts, soon followed the bicycle, so popular with younger people.

### INGENUITY BRINGS PROGRESS

But progress once started cannot be checked, the ingenuity of man knows no bounds, and at about the birth of the present century the automobile made its advent into a restless and ambitious world. In its early days much opposition developed and bankers for a time discouraged their purchase and use, even to the extent of refusing loans to well known solvent customers to invest in the thing; but this attitude soon changed and banker enemies fell under the spell and were soon driving their own cars. For a couple of decades it looked as though old Dobbin was doomed, there being no place on the roads



for him, not even in the fields, as tractors multiplied with alarming rapidity. The mind of mortal man is subject to sudden change and there is now accumulating evidence that the horse is not regarded as entirely dispensable. Almost with the last quintet of years the coach and carriage in many big cities have become quite the aristocratic thing in which the idle rich may show off and shine.

The picture of the transition as a whole at times has caused me to question and criticize some of the things I have observed, and my good wife, during her latter years, to goodnaturedly include me in with the "old fogey" species. Appreciating her good sense and sound judgment I will not contend that she may not have been right. I hope I am not averse to progress for any thing that may make for a better world in which to live has value, but when I compare some things that now exist to that of a half century ago, I am not at all sure that in some things we have not progressed backward, or that some of our so-called progress is best for all the people.

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### MOUNT OF ROSES

The attractive town of Montrose in Lee county, on the Mississippi river between Fort Madison and Keokuk, was one of the first sites permanently settled by the white man in Iowa. A French-Canadian, Louis Honore Tesson, established a trading post at that point in 1799, when the region was still under Spanish rule and control. He planted a grove of apple trees which became the first orchard in Iowa. The site is now under water as the river was backed up and widened there by the Keokuk dam.

This also was the site of the first Fort Des Moines, established in 1834, but abandoned in 1836. The settlement at that time was known as Cut Nose, for a neighboring Indian chief. It later was called Mount of Roses, and Montrose is a contraction of that. The town is just across the river from Nauvoo, Illinois, the old-time Mormon settlement.

# *Annals Addenda . . .*

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## AN IOWA EMANCIPATOR

When Maj. Gen. Grenville M. Dodge was called from his army duties in the south in May, 1863, to report to General Grant and President Lincoln, at Washington, he felt apprehension that he might be criticised for something done trying to bring the Civil war to a close; and particularly for having had a part in organizing Negro companies of soldiers to fight for the Union. On the contrary he found that President Lincoln wanted primarily to discuss with him the location of the eastern terminus of the railroad that was to span the western continent.

It appears that somewhere down in Georgia, Colonel Cornyn of the U. S. army had a spat with one Colonel Biffles of the C. S. army, as result of which the former wrote the latter as of date, Savannah, May 30, 1863, as follows:

Your pompous demand for the surrender of one squadron of cavalry (the 15th Illinois regiment) occupying this place, and your cowardly retreat before you received Captain Carmichael's intrepid reply, suggested to me the propriety of visiting upon the traitor citizens here (who tried to assist you in the capture of that gallant little band) a little of the legitimate vengeance of my Government. Therefore, in the name of our glorious Republic, I hereby make good the grand exordium of the Declaration of Independence, i. e., "that all men are created free and equal," and today I free and take with me from this town every colored creature who inherits with the human race everywhere the image of his maker and an immortal soul.

There was a loud outcry, as a matter of course, and demand voiced in the press for the hanging of Colonel Cornyn and General Dodge, if they could be captured. General Dodge took his command west from Georgia, and he left the following account of what happened:

When my command turned to return to Corinth it seemed as though every Negro in that broad and fertile Tennessee valley followed us. They came with their families, loaded in all kinds of vehicles that they took from their masters—coaches, carriages

farm wagons—with mules, oxen and cows hitched to them. They were the most motley and picturesque crowd that I ever saw, and it was estimated there were over 2,000. They made a column two miles long and I was at my wit's end what to do with them. When we reached Corinth I camped them on an abandoned plantation near our entrenchments, placed over them the chaplain, Alexander, of the 27th Ohio infantry, and guarded them with details from the command. The white soldiers objected to guarding Negroes and several conflicts ensued when our sentinels shot one or two of the contrabands.

Chaplain Alexander said to me that if I would furnish him arms and equipment he would raise two companies of Negroes to watch and guard the camp. There was no authority for this and the ordnance officer would not issue the arms, but would deliver them to Chaplain Alexander on my order, which I gave and this solved the problem. The families were put to work on abandoned plantations to raise their own food. The friction with the white soldiers was avoided, but my action in arming Negroes and the fear of them in that part of the country, caused constant criticism and was reported to Washington, but General Oglesby, my commander, approved my action but made no report upon it.

The sequel to this, of course is well known to all familiar with the story of the war for preservation of the Union, but the part of General Dodge is not so well remembered. Soon after, Gen. Lorenzo Thomas visited Corinth and held a meeting where he disclosed his plan to enlist Negroes for service. General Dodge also spoke at the meeting in approval. This aroused great indignation in the south. General Dodge follows up the story thus:

The Confederate authorities raised the question of the treatment of Negro soldiers when captured. They indicated that they did not treat them as prisoners of war. Our government immediately made known its policies, to the effect that they would retaliate for any cruelties or any treatment of those prisoners different from white soldiers. Finally on June 11th a test case came when a Negro lieutenant and twelve enlisted men, who, they claimed, had committed depredations and arrested citizens, were captured at Grand Gulf and were taken to Jackson, Mississippi. There was a great deal of excitement and threatening to administer the lynch law to them, but under the direction of the Confederate administration they were turned over to the military forces to be dealt with, as they claimed to be United

States troops, and were treated as prisoners of war. This occurred at the capital of the president's own state and settled the policy toward Negro troops.

As the Federal army was pretty close to the land of slavery the enlistment of Negro volunteers went on rapidly. General Dodge in his memoirs told of results:

On June 16th the First regiment of Alabama cavalry, A. D. had become fully organized and were mustered into the service, mustering about 900 men, and they were as fine a body of men as I ever saw. The organizing of these regiments gave me a great opportunity to reward enlisted men and officers in my command who had distinguished themselves. I took the field officers for this regiment from commanding officers in the companies, while the captains and lieutenants I selected from non-commissioned officers who were recommended to me as being very competent and they proved themselves to be so. This regiment had built large and commodious barracks and were being thoroughly drilled; and upon the mustering of the regiment, we immediately started recruiting the Second Alabama infantry A. D.

There was a great change in the sentiment of the army after they saw this regiment organized, drilled and on duty, and there were a great many applications to me from officers in the white regiment for authority to recruit other regiments. The regular white troops at Corinth obtained a set of colors and they were presented to the regiment by Col. M. M. Bane of the 50th Illinois infantry. His speech to the regiment was eloquent and pathetic, urging them to defend their colors to the last extremity. Two colored soldiers responded, fixing the attention of all who could hear. One had made his way to Corinth over 200 miles only a few weeks ago. Among other most appropriate and witty remarks he said to his colored friends that they had often heard of the old banner, and longed for the freedom it promised; and although they could not deny having had plenty of "stripes" they had certainly never before received the "stars." These colors, he exhorted his fellow-soldiers to bear aloft, never allowing their rebellious masters to trail them in the dust. Col. (James B.) Weaver, of the Second Iowa infantry, also spoke very eloquently, telling the colored soldiers that since their masters had given them "stripes" it had now come their turn to make them see "stars."

Not all of the worries of an emancipating army came from the colored part of the population. General Dodge and his associates had trouble with many who sought to escape to the freer states. He wrote:



In addition to the great number of Negroes who flocked into Corinth there also came a very large number of white refugees from the northern part of Alabama and Tennessee. They were all loyal and able-bodied men and they entered the First Alabama infantry, but left the women and children for us to support. I could not take care of them at Corinth, but I raised an assessment from the sympathizers of the rebellion and southern people, quite a sum of money, and sent them north to be disposed of among the loyal people there. General Buford was in command at Cairo and he distributed some 500 of these women and children, sending them to Quincy, Decatur and Centralia, Illinois. The mayor of Centralia on June 24th wrote a letter to General Buford as follows:

By what authority do you force upon the people of Centralia the one hundred and twenty paupers you sent here by yesterday's train? You are respectfully requested to arrange their transportation south. SAMUEL STORER, Mayor.

Gen. Buford, who was a very sympathetic and loyal man sent the following letter from me:

I send you five hundred women and children refugees from the south. They are loyal people. Their husbands, fathers and brothers are in our army doing their duty, and I ask as a favor to me as well as a justice to them, that they be made comfortable and settled in the northern states. It will be well for them to scatter to the different towns where they have friends.

They have already suffered more than death and have been kicked about till they are disheartened, many of them to die. I could tell tales of their suffering under Jeff Davis' tyranny that would make every loyal man and woman's heart bleed, but all they now ask is a place where they can live comfortably and in peace until the war closes and their protectors can join them. I once more bespeak for them your well known kindness and efficient aid. I am, very respectfully, your obedient servant. G. M. DODGE, Brig. Gen.

The action of the mayor of Centralia brought down upon his head the severe denunciation and criticism of the entire north, and there came applications from the different towns for such refugees to be sent to them and from that time on we had no trouble in locating them and relieving our front of their charge.

It was at this time that some of the friends of General Dodge proposed that he be nominated for governor of Iowa, and he would have been nominated but that others closer to him gave assurance that under no circumstances would the general accept such nomination. His attitude in the matter of handling refugees of both races was known and approved in his home state.

## JAKE PERKINS TO ROTARIANS

One of the midwest's picturesque literary figures came to town the other day to address the Rotarians . . . Fifty years a preacher, J. R. Perkins of Council Bluffs, Ia., is the author of the best selling "The Emperor's Physician" and "Antioch Actress," and now, at the age of not quite 70, he is working on a third novel . . . In between times he finds time to review for the magazines and to write poetry, under the pseudonym, "Aborigine," for Charles Collins' A Line o' Type or Two column . . . He talked to the Rotarians on "Codes, from Chaldea to Chicago." These were a few of his observations:

"If we don't live what we preach, what we preach won't live." . . . "You cannot maintain wrong relations with your neighbor and right relations with your Maker." . . . "How silly it is to think that thru war we can reach a lasting peace." . . . "Despite its failure to stop wars—a charge frequently leveled against it—Rotary International has kept alive thru two terrible wars, the spirit of men of good will. It has maintained, and still maintains, that this is a life to be lived—not an act to be put on."—Frederick Babcock in "Among the Authors," *Chicago Tribune*.

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## THE AMERICAN HERITAGE

A most attractive new magazine, the *American Heritage*, that will greatly interest lovers of American history, is being launched by the American Association for State and Local History. It is to be issued quarterly and those interested in the growth of America will be stimulated by this new publication, which promises to be instructive as well as entertaining. Full color pictures, charts and maps are included in its pages, and its articles are most excellently presented. The subscription rate has been placed at three dollars, annually, and it may be obtained through its editor, Earle Newton, *American Heritage*, Montpelier, Vermont.

## *Iowa's Notable Dead*

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ANSON MARSTON, dean emeritus engineering division, Iowa State College, Ames, Iowa, died October 21, 1949, in an automobile accident in a car driven by his brother, Walter S. Marston, on highway No. 30, four miles west of Tama, Iowa; born May 31, 1864, on a farm near Seward, Illinois, from which community the brothers were returning at the time of the accident which cost the dean his life; educated in the high school at Rockford, Illinois, graduating in 1883; attended college one year at Berea, Kentucky; after period of teaching to earn money for furthering his education entered Cornell university at Ithica, New York, and received his degree in civil engineering in 1889; married Mary Alice Day at Seward, December 14, 1892, who survives him; did location work as an engineer for the Missouri Pacific railway from 1889 to 1892, coming to Iowa State college the latter year as professor in civil engineering; in 1904 was appointed first dean of the engineering division, and the same year director of the experiment station, a member of the first Iowa state highway commission and its first chairman, remaining in his educational position actively until 1937 and on the highway commission for 23 years, there being irony in the fact that he was killed on one of the state highways that was a part of the 6,000 miles of surfaced roads in Iowa for which he was more responsible than any other one man, and generally regarded as the pioneer of hard surfaced roads in the state; distinguished not only as a teacher and an administrator, but as a construction director of a number of the larger buildings on the Ames institution's compus, including Central building, Engineering hall, Agricultural hall, Engineering annex and the Campanile; had been a directing force in many major engineering projects throughout the country and abroad, designing many municipal sewer systems, sanitary and sewage plants and as consulting engineer for commercial firms; a member of the engineering board of review of the sanitary district of Chicago in 1924 and 1925, and consulting engineer in construction of the Miami, Florida, sewage plant from 1925 to 1927; a member of a commission appointed in 1927 by President Coolidge to investigate reclamation of the Everglades, and as a member of the interoceanic canal commission appointed in 1928 by President Hoover; became a major in the engineering corps of the U. S. army in 1917; advanced to the rank of lieutenant colonel in 1918 and commanded the 97th regiment of engineers in the field until demobilization December 14, 1918; became a colonel in the officers reserve corps since 1924; served during 1929 as president of the American Society of Civil Engineers, a

position carrying the highest honors of his profession; in 1928 was president of the Association of Land Grant colleges and universities; served as a member of the National Research council representing the American Society of Civil Engineers, as a member of the executive committee of the American Society for Testing Materials, as president of the Society for the Promotion of Engineering Education, as president of the Iowa Engineering society, and a member of the administrative board of the American Engineering council; awarded in 1903 the Chanute medal of the Western Society of Engineers, and in 1904 the Fuertes medal of Cornell university; besides during his professional career published more than 200 technical articles in various engineering publications, many of which were read at various scientific meetings; awarded in 1948 an honorary doctor's degree by Iowa State college, having himself a few years previous established the Anson Marston medal, which is awarded annually to a professional engineer who has contributed materially to the betterment of mankind; served Iowa in a thousand and more ways in forwarding the movement for its hard surfaced road system, and practical and scientific service in standardized plans for road drainage, culverts, bridges and revolutionary system of grading that gave Iowa one of the best network of highways in the nation; contributed invaluable service to his local community; a member of the Masonic bodies, college fraternities, community clubs, engineering organizations, and the Ames city council; survived by the widow and two sons, both in active duty with the U. S. army, Brig Gen. Morrill Marston, now in Austria, and Col. Anson Marston, Jr., now at Alexandria, Virginia, besides two grandsons and his brother, Walter, with the highway commission at Ames.

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FORRESTER CALL STANLEY, educator, scientist, editor and legislator, died at Oskaloosa, Iowa, November 5, 1949; born on a farm near Ackworth, Warren county, Iowa, November 26, 1881; removed to Indianola, Iowa, in 1890; graduated from Indianola high school in 1899; interested in stock farming a few years; attended Simpson college at Indianola and graduated in 1907 with a B. S. degree; read law with O. C. Brown and became a partner in the publication of the *Indianola Herald*; attended the University of Wisconsin and received his master's degree in chemistry in 1910; married to Ada C. Whitney of Beaver City, Nebraska, July 27, 1915; was head of the department of chemistry of William Penn college, Oskaloosa, since 1910 until appointed president interim of the institution April 1, 1949, and elected president by the board of trustees September 1, 1949; on leave of absence spent a year in 1913-1914 in Europe specializing in chemistry at the University of Berlin, in Germany; traveled extensively



through Europe, Egypt, Palestine, and Turkey; completed a four-months round-the-world trip by plane in June 1948, made to film in color many scientific and scenic spots and to visit two of his daughters, Mrs. Margaret Tesdell, a nurse in Shanghai, China, and Mrs. Barbara Stanley Pittenger, Newington, Conn., who, at that time was a dietitian in New Delhi, India; two other daughters, Mrs. Kathryn Stroud, Norfolk, Virginia, and Mrs. Joseph Ferguson, Des Moines, and his widow survive him; elected an Iowa state senator in 1924, serving two terms in the Forty-first, Forty-second, Forty-third and Forty-fourth General Assemblies; during the period of his service as president of William Penn college accomplished a reorganization of the school, engaged new instructors, replenished a depleted college treasury and restored many of the old accepted Penn traditions, including re-establishment of former relations with the Iowa yearly Meeting of Friends society; prominent in local activities and fathered many civic musical events; also instrumental in restoring the former community lyceum courses; an active and effective civic leader and a Republican.

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ALBERT GREGORY HULL, physician and financier, died October 23, 1949, at his home in Joplin, Missouri; born August 16, 1867, at the farm home in the outskirts of Birmingham, Van Buren county, Iowa; the elder brother of Major General John Adley Hull, judge advocate general, U. S. army, and son of Capt. John Albert Tiffin Hull, a Union veteran of the Civil war, a former secretary of state and lieutenant governor of Iowa and congressman for many years from the Des Moines district, the mother being Emma Gertrude Gregory, daughter of Adley Gregory, a pioneer resident of Birmingham, who settled in Iowa upon removal from Ohio in 1850. Captain Hull established the *Birmingham Enterprise* in 1869, and in 1873 became owner of the *Bloomfield Republican*, which he edited until 1879, and after retirement from congress practiced law in Washington, D. C., residing upon an adjacent homestead in Virginia until his death, and with his wife is buried in Arlington National cemetery.

Dr. Hull spent his early childhood in Birmingham, where at his own request made prior to his death, his remains were interred beside a baby sister, Daisy Hull, who died August 19, 1870, in Maple Hill cemetery at Birmingham, which he had visited a short time previously. He graduated with an M. D. degree from the medical school at the State University of Iowa, continuing his study of medicine thereafter in Vienna, Austria, and for many years enjoyed practice of his profession at points in Iowa and Missouri, subsequently taking post-graduate courses both in this country and abroad; developed several business enterprises and made paying investments in lead and zinc ore-bearing properties

in what is known as the Tri-states district of Oklahoma, Kansas and Missouri; organized the Rialto Mining Corporation operating in Oklahoma, one of the richest lead and zinc mines developed in that field; became one of the original stockholders of the W. A. Schaeffer Pen Company of Fort Madison, Iowa, and for twenty-five years prior to his death devoted his entire time to business activities; survived by his wife, Ray M. Hull, of Joplin, and a daughter by a previous marriage, Elizabeth Hull, of Ridgefield, Connecticut, whose mother was a member of the Abernathy family of Kansas City.

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DR. J. FRANCIS SMITH, blind professor of Neurology and lecturer, died December 27, 1949, at his home in Philadelphia, Penn.; born in 1896 at Waterloo, Iowa; studied at the Military School of Orthopedic Surgery and Physio-Therapy in Toronto, where he served on the staffs of two military hospitals; later became associated with the West St. John Hospital of the Department of Soldiers Civil Re-establishment; was blinded while serving in France with the Royal Canadian army during World War I, and in the recent war headed the Philadelphia branch of the Maple Leaf Fund, which was amalgamated with the British War Relief Fund, and for his services he was decorated by King George VI; for ten years was consulting neurologist for the New York osteopathic clinic; also served on the staff of the Fuller osteopathy hospital in near-by Willow Grove; was professor emeritus of Neurology and Phychiatry at the Philadelphia College of Osteopathy, where he served on the staff for seventeen years before retiring in 1945; was a former president of the American College of Neuro-Phychiatrists and the Men's Canadian society; also a past commander of the British War Veterans and a member of the Albion society, the Friendly Sons of St. Patrick, the British Officers Club and the Atlas fraternity; survived by his widow, Dr. Marion A. Dick.

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WILLIAM D. JAMIESON, editor, legislator and columnist, died November 18, 1949, at his home in Washington, D. C., upon return from an annual visit to Shenandoah, the former home in Iowa, where he became ill; born November 9, 1873, on his father's farm near Wapello, Louisa county, Iowa, son of O. Ira Jamieson; moved with parents to Wapello when five years of age, the father becoming principal of the schools; went into the father's newspaper office, the *Louisa County Record*, when nine, and with exception of the years in school and the State University of Iowa, and in public station, was actively engaged in newspaper work until removing to Washington thirty-one years ago; when nineteen became editor of the *Ida Grove Pioneer*, and while there served as chairman of the Democrat county committee; later upon the

death of his father managed the *Columbus Junction Gazette* with his mother; purchased the *Shenandoah World*, a Democrat paper, in 1901, and bought the *Hamburg Democrat* in 1906, selling it a year later, when he was elected state senator from the Fremont-Page district; succeeded in defeating Congressman Wm. P. Hepburn in 1908 and was a member of the Sixty-ninth congress; served as postmaster of Shenandoah, a member of the school board and active in civic and fraternal organizations, being a 33rd degree Mason; chosen treasurer of the Democrat national committee, entered George Washington University, studied law and was admitted to the bar; wrote for many years a widely published column on Washington and national affairs, "The Window Seat"; survived by his first wife, the former Mattie Vass, of Waukesha, Wisconsin, now residing in Des Moines, Iowa, and the present wife, Rena Jamieson, of Washington, D. C.

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SAMUEL BRUCE SNYDER, attorney and jurist, died at his home in Council Bluffs, Iowa, December 31, 1949; born at Slippery Rock, Penn., January 30, 1854, and came to Council Bluffs 62 years ago to practice law; was educated at Grove City college near his birthplace, and later studied law with an attorney at Butler in 1882 and 1883; married Mary McGlaughlin, of McKeesport, Penn., on June 25, 1885, who died July 24, 1945, a month after celebrating their sixtieth wedding anniversary; removed to Council Bluffs in 1887, where he practiced law until retirement in 1929; served as city attorney from 1906 to 1910 and afterwards as judge of the superior court until 1922; established the first juvenile court in Iowa at Council Bluffs, with sessions held on Saturdays, which he regarded as his "most important work"; a charter member of the Modern Woodmen of America and clerk of his lodge over 50 years; an elder in the First Presbyterian church over half a century and the oldest member of the Pottawattamie county bar association; a member of the district and state bar associations; survived by two sons, Erwin P. Snyder, attorney, Chicago, and Kenneth M. Snyder, of Omaha, a daughter, Mrs. Lyle Mellen, of Omaha, seven grand children and three great grand children.

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WILLIAM R. BLAKE, editor and legislator, died at Postville, Iowa, November 6, 1949; born on a farm near Elizabeth, in Jo Daviess county, Illinois, October 1, 1878; attended normal school at Danville, Illinois, and the Chicago Park business college; engaged in work in Illinois and Michigan, becoming owner of the Eau Claire, (Mich.) *Bulletin*, before coming to Delaware county, Iowa, where he did newspaper work until removing in 1905 to Clermont, Fayette county, Iowa, where he started the publication of the *Enterprise*, which he continued to publish until 1925; served as

mayor of Clermont from 1918 to 1922; married Bessie B. Morgan in 1904, who survives him, with a son, Bob, of Des Moines, and a daughter, Mrs. Anna Lolita Steele, of Sherburn, Minnesota; elected in 1920 as state representative, and served in the Thirty-ninth, Fortieth, Fortieth extra session and Forty-first General Assemblies of Iowa; subsequently became an agent of the state bureau of investigation, and in 1927 became deputy state fire marshal; elected secretary-manager of the Iowa utilities association in September 1942, but resigned September 1948 on account of failing health; a member of the Masonic, I. O. O. F. and Modern Woodmen fraternal orders and a Republican.

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JAMES C. GILLESPIE, publisher, died at LeMars, Iowa, January 20, 1950; born at Memphis, Missouri, May 18, 1870; son of James and Sarah Gillespie, who had moved from Ohio to southeastern Iowa before the Civil war; moved to Keosauqua, Iowa, with his parents in 1873, residing there until he was fifteen years of age, when his father purchased the *Memphis Bulletin*, a county paper still published by his brother; became a full time employee upon the newspaper when he graduated from high school, and from that time until his demise engaged in editing and publishing newspaper; purchased a half interest in the *Traer Star-Clipper* in 1902, and August 1, 1907 became owner of the *LeMars Sentinel*, with which he remained until his death; served upon the Iowa state printing board twelve years from its inception; one of the organizers and the sixth president of the Iowa Press association; received the group's master-editor-publisher award in 1948; a founder and first president of the LeMars Rotary club, and participated in the organization of the Boy Scout movement there; active in civic enterprises and a lifelong member of the Methodist church; survived by his wife and four children, two sons and two daughters.

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WILLIAM EUGENE GILTNER, attorney and legislator, died December 13, 1949, at the University hospital at Iowa City, where he had undergone two operations recently; born on a farm east of Albia, Iowa, October 6, 1871; son of Alexander Martin Giltner, former member of the Sixteenth General Assembly of Iowa, and Mary Elizabeth Newell Giltner, formerly of Indiana; educated in the rural schools, and the Albia academy; graduated from the Gem City business college, Quincy, Illinois, in 1894, and attended Parsons college, Fairfield, Iowa; studied law in the offices of Judge Henry L. and George W. Dashiell, at Albia; admitted to the practice in 1899, and has practiced law there ever since; owned and operated a farm; served as representative in the Thirty-seventh and Thirty-eighth General Assemblies of Iowa, and presi-



dent of the Monroe county bar association at the time of his death; survived by his wife, formerly Hattie E. Galliher, of Jefferson county, Iowa, three daughters, Mrs. A. K. Kridlebaugh of Chariton, Mrs. Paul Robinson, of Couer d'Alene, Idaho, and Mrs. J. E. Moore, Des Moines; and two sons, William Martin, of Albia, and Harold Edward, of Escondido, California; and fourteen grand children; a member of the Presbyterian church, the Masonic lodge, and a Republican.

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HENRY CLAY BEARD, lawyer and public official, died at his home at Mount Ayr, Iowa, December 30, 1949; born on a Ringgold county, Iowa, farm July 26, 1877; graduated from the Mount Ayr high school and the law department of the State University of Iowa in 1898, and admitted to the bar the same year; practiced law at Mount Ayr, becoming its mayor; served as county relief administrator and a member of the first county old age assistance board; a member of the first Iowa highway commission by appointment of Gov. George W. Clarke from 1913 until January 1919; made assistant U. S. district attorney in southern Iowa Federal court from October 1, 1918, until September 1, 1920; appointed to the state board of social welfare as the Democrat member by Gov. Geo. A. Wilson, when it was first set up in 1939, serving until June 30, 1949; survived by his wife, Anna Duncan Beard, of Mount Ayr, and two daughters, Mrs. Margaret Dalbey, Diagonal, and Mrs. Ruth Fuller, Centerville, and a son, John Beard, Mount Ayr, an attorney; a member of the United Presbyterian church and a Democrat.

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WILSON H. HAMILTON, lawyer and former justice Iowa supreme court, died December 9, 1949, at Sigourney, Iowa; born on a farm in Warren township, Keokuk county, near Delta, Iowa, May 1, 1877, son of James Alexander and Matilda Vert Hamilton; educated in the country schools and the high school at Delta; graduated from Drake University law school in 1900 with degree of LL.B and admitted to the bar the same year; married Ethel M. Jacobs, May 9, 1901; their children being Edgar C., a practicing attorney in Sigourney, Jack, who has operated his father's farm near Delta, and Martha E. Hansen, (Mrs. Roy J.), who resides in Sigourney; practiced law in Sigourney from 1900 to 1937, when he was elected justice of the Iowa supreme court; made chief justice of the court July 1, 1937; served as county attorney of Keokuk county from 1902 to 1904, and was Democrat candidate for congress in the old sixth Iowa district in 1914; a member of the Methodist church, the Masonic, I. O. O. F. and W. O. W. orders, the Lions club, the Iowa state bar association and a Democrat.

PAUL LANGENFELD, artist and designer, died January 7, 1950, at Carroll, Iowa; born June 1, 1897, at Earling, Iowa; son of Mrs. Josephene Langenfeld and the late Michael Langenfeld; attended St. Joseph's parochial high school, and received training at the Art Institute at Chicago, completing his course there in 1921; located at Sioux City and elsewhere prior to coming to Carroll 23 years ago; married Mildred Elizabeth Montgomery October 17, 1922, at Schaller, Iowa; had attained distinction in his work which had taken him into the states of North and South Dakota, Minnesota, Wisconsin, Illinois, Missouri and Nebraska, besides Iowa; had designed or decorated more than 1,000 churches in the midwest, where the Langenfeld studios were widely known and employed mainly in the designing of church decorations, though other edifices and buildings have been subjects of his art; survived by his mother, wife, a sister, and a brother, his father and two brothers having preceded him in death.

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ROYAL H. HOLBROOK, engineer, lecturer and historian, died at Cedar Rapids, Iowa, January 29, 1950; born at Wonewoc, Wisconsin, March 25, 1869; graduated from the state normal college at Winona, Minn.; in 1912 married Mary Irene Amidon at Cedar Rapids; served as a member of the Iowa coal conservation commission during World War I, after which he became a lecturer on combustion engineering for the Iowa State college extension division; served also as president of the National Association of Power Engineers, secretary of the Iowa Hotel association and the Iowa Bakers association and the Iowa Manufacturers of Carbonated Beverages; a long-time authority on Iowa history, resources and products, he delivered addresses at hundreds of meetings throughout the state and at high school commencements; a Methodist, a Mason and a Republican.

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CHARLES STERLING TRIMBLE, dairy scientist and technologist, died at Washington, D. C., February 23, 1950; born at Pomeroy, Iowa, in 1890; graduated from Iowa State college at Ames, and for the past thirty years has been with the Bureau of Dairy, U. S. Department of Agriculture; a veteran of World War I; a member of the American Legion, of the American Dairy Science association and the Wallace Memorial United Presbyterian church for twenty-six years, a trustee for eighteen years and a ruling elder for some years past; survived by his wife, Mary B. Trimble, and his daughter, Mary Patricia Trimble, at 1443 Holly street, N. W., Washington, D. C.





